SENATE—*Tuesday, July 18, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Grace be to you and peace from God our Father, and from the Lord Jesus Christ. Blessed be God, even the Father of our Lord Jesus Christ, the Father of mercies, and the God of all comfort * * *.*—II Corinthians 1:2, 3.

God of all comfort, make Thy presence and Thy peace felt wherever there is hurting in our large family and with those who suffer in hospital and home. Encourage them with Thy love and grace. Assure them of the concern and prayers of their friends in the Senate community.

Our hearts are especially burdened for Willie Anthony, employee in the Dirksen Restaurant. Comfort him in the tragic loss of his wife, 4 months pregnant, shot in the head by a stray bullet as she sat on her front porch. Console him in the knowledge that all of us join in sympathy and prayer.

Help us, gracious Father, to be sensitive, loving, and caring to each other as we are aware of each other's needs.

In the love of God we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business until 10:30, with Senators permitted to speak therein for up to 5 minutes each. The time between 10:30 and 12:30 will also be considered as morning business for the purpose of the introduction of legislation and constitutional amendments relating to the issue of the desecration of the American flag and discussion of that question. Senators will be permitted to speak for up to 10 minutes each during that period.

The Senate will stand in recess from 12:30 to 2:15 for the party conferences. When the Senate reconvenes at 2:15 p.m., there will be 20 minutes of debate on the Moynihan amendment, equally divided and controlled between Senators MOYNIHAN and HELMS. A vote on the Moynihan amendment will occur at 2:35 p.m.

I expect other votes to occur after the vote on the Moynihan amendment. So Senators should be aware that there will very likely be rollcall votes throughout the day during today's session.

Mr. President, I reserve the remainder of my leader time and yield to the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the majority leader is reserved.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. The Republican leader is recognized under the order.

Mr. DOLE. Mr. President, I reserve my time.

The PRESIDENT pro tempore. Without objection, the time of the Republican leader is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. ADAMS and Mr. THURMOND addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Washington [Mr. ADAMS] is recognized.

Mr. ADAMS. Mr. President, I yield to the Senator from South Carolina if he has business that he has to take care of immediately. I have a 5-minute speech I wish to make in morning business.

Mr. THURMOND. I thank the Senator.

The PRESIDENT pro tempore. The senior Senator from South Carolina [Mr. THURMOND] is recognized for not to exceed 5 minutes.

TRIBUTE TO LT. GEN. HENRY DOCTOR, JR.

Mr. THURMOND. Mr. President, I rise today to recognize Lt. Gen. Henry Doctor, Jr., the inspector general of the Army and a South Carolinian, for his many years of meritorious service to our Nation. General Doctor retires from active service on July 31, 1989.

Hank, as he is known by his friends, was born in Oakley, SC. He graduated from South Carolina State College, where he was commissioned a second lieutenant of infantry and awarded a bachelor of science degree.

General Doctor has been the inspector general of the Army since July of 1986. He is widely respected for his inspirational leadership of the Inspector General Corps and his significant enhancement of the inspector general system. General Doctor's frankness, honesty, and compassion are reflected daily by every inspector general, inspector general assistant, and civilian employee of the Inspector General Corps throughout the Army.

As the inspector general, he is the key advisor to the Secretary of the Army and the Chief of Staff. His professional advice to the Army's senior leadership always demonstrated his deep concern for the Army and, especially, for its soldiers and their families. His actions always reflected his deep commitment to the credibility of the Inspector General Corps.

During his 35 years of military service, "Hank" Doctor held a wide variety of important command and staff positions. Immediately prior to his assignment as the inspector general, he served as the deputy inspector general. Prior to that he commanded the 2d Infantry Division in Korea where, several years ago, I personally had the opportunity to observe his dynamic leadership and sincere concern for the soldiers under his command.

General Doctor's other significant assignments included: director of the enlisted personnel management at the Army Military Personnel Center; commander, 1st Brigade, 25th Infantry Division; assistant division commander, 24th Infantry Division; and, Chief of Staff, U.S. Army Materiel Development and Readiness Command. He served overseas in Alaska, Europe, Hawaii, South Korea, and Vietnam, where he was executive officer of the 1st Battalion, 35th Infantry, 25th Infantry Division.

General Doctor's professional schooling include the U.S. Army In-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

fantry School, the U.S. Army Command and General Staff College, and the U.S. Army War College. He also holds a master of arts degree in counseling and psychological services. General Doctor's awards and decorations include the Distinguished Service Medal, the Legion of Merit, the Bronze Star, the Air Medal, and Army Commendation Medal.

He is married to the former Janie Manigault. The Doctors have four children: Constanza, Lori, Kenneth, and Cheryl.

Hank Doctor is now completing his remarkable career. He will be missed by the soldiers with whom he served and by our grateful Nation.

I am pleased to salute Lt. Gen. Henry Doctor, the inspector general of the Army, for his many years of outstanding service to the U.S. Army and our country.

I am glad Hank and Janie could be here this morning. I take great pride in the fact that he is a South Carolinian, and I am proud of him as a great American. His accomplishments reflect the opportunities we have in America for all people who are willing to work and willing to prove themselves, as he has done.

I wish him and his family well.

I wish to thank the able Senator from Washington State, for allowing me this time.

The PRESIDENT pro tempore. The senior Senator from Washington [Mr. ADAMS] is recognized.

A SPECIAL EVACUATION TEAM FOR THE DEPARTMENT OF STATE

Mr. ADAMS. Mr. President, I rise this morning to indicate that during the further consideration of the State Department authorization bill I will be offering an amendment on behalf of the American citizens and their families who were caught in the web of confusion during the recent unrest and bloody tragedy in Beijing last month. I hope this amendment will be accepted by the managers. I believe that it will be.

While the world watched thousands of brave Chinese students stand up for democracy and fight their Government's resistance to freedom, many American citizens were in China and were directly affected by the political unrest. Thousands of American travelers, students, and Government personnel from my State and elsewhere, saw the growing tensions in Beijing and looked to their Government for help and assistance. Unfortunately, a lack of preparation caused delays in evacuating American citizens and created immense anxiety for their families and dependents here at home. This, of course, was reflected in my office in Washington and in Seattle and I am sure in many other offices in the Senate and the House of the United States.

Thousands of these people needed help. The amendment that I am offering is not meant to criticize our Foreign Service personnel nor the obvious hard work of State Department employees here in Washington. They were under enormous pressure to assist American citizens seeking to leave China, and they kept the lights burning. But the situation in Beijing did not explode overnight. It developed over several days. And as we watched the hostilities grow, better preparation was warranted. Instead, our office—and I am certain many others—saw mass confusion from a system lacking in coordination and communication. Many constituents were given conflicting advice by the Embassy and, in some cases, were given dangerous advice. I personally was called by families and contacted the State Department, which at one time advised Americans to go to the Beijing Hotel, which was very bad advice. Some were told not to go to the airport; others were told to go to the airport immediately.

We need a special evacuation team in the State Department to assist embassy personnel on the ground. Our embassy personnel in Beijing stopped issuing visas during the turmoil because they were forced to handle a delayed and ad hoc evacuation policy. Certainly, we have had enough problems around the world with evacuating U.S. citizens that we need to have a system and an office that will provide not only assistance but will be able to tell us here as well as those abroad what should be done.

Mr. President, I am sad to report that the United States lagged behind every other Western country in evacuating its citizens from China. Other countries were landing planes, giving specific instructions. They had vans on the streets and they were taking people to the airport and seeing that they were leaving. Similar measures should have been implemented for Americans.

Mr. President, this is a very simple amendment. I do not think it will cause any disruption at the State Department and it will not cost additional amounts of money, but it will save us from a tragedy in the future.

First, there should be developed a model emergency contingency plan for evacuation of personnel, dependents, and U.S. citizens from foreign countries. This should be in place in our State Department in Washington, DC.

Second, there must be a data bank of American citizens in the area being evacuated. We do have the time to develop this data bank if we are immediately contacting people who have visas in the area. During the China evacuation, the State Department was trying to keep track of our citizens on index cards.

Third, State Department personnel with expertise in evacuations should assess the transportation and communication resources in the area and determine the logistic support needed for evacuation. Parenthetically, I might state, Mr. President, I have been in China a number of times. The airport is a distance from town. There is no direct public transportation. It must be traveled by van or by taxi. We should have had a plan to get Americans to the airport.

Fourth, we must develop a plan for coordinating communications between embassy staff, Department of State personnel, and families of U.S. citizens abroad regarding the whereabouts of those citizens.

Mr. President, we grieve for the heroes of Tiananmen Square. We are fortunate not to have lost Americans. I urge my colleagues this afternoon to adopt this amendment to increase our ability to prepare for future crises.

The PRESIDENT pro tempore. What is the will of the Senate? The junior Senator from California [Mr. WILSON] is recognized for not to exceed 5 minutes.

SDI

Mr. WILSON. Mr. President, on this fine sunny morning with our flag billowing proudly in the soft, summer breezes of Washington, America is at peace.

And America remains defenseless and as much at peril from nuclear missile attack as we have been every morning and evening for the more than four decades since the dawn of nuclear war at Hiroshima.

That is right.

The terrifying but undeniable fact is that America is without defenses against the mind-numbing nightmare of nuclear devastation wrought by ballistic missile attack.

Yes, we possess some limited ability to retaliate against such an attack. And there are some among us who find in that stark possibility an adequate substitute for real defenses. They take comfort in what they term the doctrine of mutually assured destruction.

I do not.

And, Mr. President, America need not—certainly not—when there is available to us a real defense which is infinitely better both militarily and morally than continued exclusive reliance upon a precarious balance of nuclear terror, depending uncertainly upon the threat of mutual destruction.

That real defense—that humane and militarily more credible deterrent to unwinnable nuclear war—is SDI, the strategic defense initiative.

In March 1983, President Ronald Reagan charged America's scientific and military community to launch the initiative that would set in place a peace shield of ballistic missile defenses that would make impossible the success of a decapitating first strike by nuclear missile attack, thereby enhancing the certainty and credibility of our retaliatory deterrent, and thereby rendering irrational to a rational Soviet war planner the notion of a successful first strike.

In launching SDI, President Reagan asked with simple eloquence, "how much better to save lives than avenge them."

Clearly it seemed fully possible that in voicing this profound hope for all mankind, the President and SDI might in fact bring the world into a bright new age when a future of mutually assured survival would replace the dark past of mutually assured destruction.

So it seemed then. But on this sunny morning, the future is far less bright and clear.

Tragically, with so much within our grasp, it is all too clear that Congress does not attach the same importance to SDI as President Reagan or President Bush.

And it is painfully clear that Congress does not share their sense of urgency that America reach that time of assured survival as soon as possible. Congress is in no hurry to achieve the promise of SDI.

Meanwhile America remains defenseless to nuclear missile attack.

America remains defenseless, but the House of Representatives seems ready to prove once again that democracy is that form of Government which repeatedly imperils its very survival by electing policymakers who refuse to provide for an adequate national defense.

Specifically, after the administration responded to deficit pressures by a painful reduction of a billion dollars from President Reagan's proposed SDI budget for fiscal year 1990, the House Armed Services Committee slashed another $1.1 billion to bring down authorized spending for SDI from $4.6 to $3.5 billion, or $200 million less than the fiscal year 1989 SDI budget.

And I am advised that when the full House takes up the defense authorization bill within the next 2 weeks, it is expected that an amendment will be adopted that will further cut authorized spending for SDI to only $2.8 billion, almost a full billion cut from the level of last year's spending.

Mr. President, successive cuts of that magnitude by the House do not represent prudent cost reductions. This is not careful pruning or even radical surgery. It is mutilation.

It is a 50-percent cut in the Reagan proposal for fiscal year 1990, and a 40-percent reduction in the far more austere, deficit-driven request of President Bush.

It is irresponsible and dangerous.

Mr. President, it gives me absolutely no joy to make so harsh a charge, and I do not do so lightly.

Rather I am compelled to do so by the harsh realities that will be caused by these unwise House cuts. I am prepared to document the impacts produced by the cuts which range from unwise to downright dangerous.

Mr. President, I offer for the RECORD the expert assessment of these threatened impacts of Lt. Gen. George L. Monahan, Jr., USAF, Director of the Strategic Defense Initiative Organization. General Monahan's assessment is contained in a letter from him to me, dated July 7, 1989.

Mr. President, I ask unanimous consent that the full text of his letter, including the attached tabular data, be printed in the RECORD to appear at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered:

(See exhibit 1.)

Mr. WILSON. Mr. President, the sad experience of a continuing pattern of unwise House actions in prior years has led me to anticipate the need for General Monahan's expert assessment. I requested it during his appearance on June 15, 1989 before the Senate Armed Services Committee's Subcommittee on Strategic Forces and Nuclear Deterrence.

Specifically, I requested of General Monahan, in his capacity as Director of the Strategic Defense Initiative Organization, that he prepare an analysis of the impacts upon the SDI Program of spending cuts by the Congress of 10 percent, 20 percent, and 30 percent, from the $4.6 billion requested by President Bush in the SDI budget for fiscal year 1990.

Mr. President, before proceeding to outline General Monahan's analysis, let me first provide some context for it.

I repeat that the United States has no defenses against ballistic missile attack other than the uncertain threat of our possible retaliation against such attack.

Let me add that none of our allies presently has defenses against missile attack. Some like Israel are in clear and present danger of such a potentially devastating attack and Israel specifically is trying desperately to achieve an antiballistic missile defense in time to prevent or successfully defend against the existing and growing missile capability of hostile neighbors.

But the ability of Israel, or Great Britain or West Germany to develop and deploy ABM defenses which may well make the difference between their destruction and their survival, is dependent upon the pace and progress of the American SDI Program. And the pace and progress of SDI obviously depend upon adequate funding of SDI.

So what constitutes adequate funding?

Bear in mind that deficit reduction pressures have driven severe cuts in overall defense spending. President Bush's request of $4.6 billion for SDI reflects one of the deepest and most serious cuts—a full billion dollars under the Reagan fiscal year 1990 request—even before any further cutting by Congress.

And the pace and progress of SDI?

At his appearance before the Strategic Subcommittee on June 15, General Monahan repeatedly and emphatically made a plea that no further cuts be entertained, stating unequivocally that the $4.6 billion requested by the President represented the bare minimum required to sustain essential pace and progress. Repeatedly he emphasized that any reduction below the $4.6 billion would result in unaffordable program disruption and delay.

In his July 7 response to my request for written analysis of the impact that would be produced by incremental further reductions by Congress, General Monahan spelled out with painful clarity the specific impacts of such cuts.

Quite properly, the general did not mince words. He wrote:

> The current program is structured to permit a deployment by the President within the next 4 years. * * *
>
> Budget reductions from current levels may force both a delay in projects supporting an initial phase of a future strategic defense system, but an even longer delay in projects which support follow-on systems. This outcome could force a major redirection of the program.
>
> The impact of successive budget reductions would also produce increasingly serious damage to the SDI program infrastructure * * * even at the 90-percent level we will have to begin dismantling this infrastructure, incur additional costs due to program stretchout and contract renegotiation/termination, force layoffs, and suffer losses of skilled scientists and engineers.

What is the magnitude of these losses?

With a 10-percent cut, "the national work force currently planned for fiscal year 1990 SDI research may be reduced by 3,500 personnel."

With a 20-percent cut, the projected reduction in national work force is "more than 6,000 personnel."

And with a 30-percent cut, the resulting cut in the planned work force reaches "more than 8,000 personnel."

And what then would be the result of so drastic a reduction in the SDI research program work force?

> This funding level could not support the research and testing needed to make an informed deployment decision within 4 years.
>
> U.S. funding for most allied cooperative programs, would be terminated. Specifically the arrow missile project currently being de-

veloped to provide Israel the anti-tactical ballistic missile defense, upon which it may well depend for survival, is threatened with termination.

Further, at a level of SDI funding that is only 70 percent of the President's request, the "layered defenses that meet the requirements of the Joint Chiefs of Staff" would also be a casualty.

The Joint Chiefs conceive correctly that America needs the kind of ABM defenses, consisting of both ground-based and space-based components, capable in combination of destroying attacking ballistic missiles in all three phases of their trajectories: boost phase, mid-course, and terminal.

Specifically "directed energy and advanced technology programs for follow-on systems would be fund-limited, rather than free to advance at the pace technology is developed." As an example, the very promising "brilliant pebbles" technology would be threatened with cancellation, or at least significant delay which we just cannot afford.

The net result of a 30-percent cut would be that "* * * initial deployment would be delayed until well after the year 2000, with no provision for follow-on systems to offset Soviet countermeasures to the initially deployed system."

Not surprisingly, General Monahan concludes that "the President's fiscal year 1990 requested level for the SDI Program must be upheld."

Let me underscore as forcefully as I can that the dire results which General Monahan has outlined are predicated upon a 70-percent level of funding; and it is expected that the House of Representatives will irresponsibly cut SDI funding to the very dangerous and utterly unacceptable level of only 60 percent.

Should the House, under any pretext, engage in so irresponsible an action, it cannot be shrugged off as merely tiresome political gamesmanship.

While America and her allies remain defenseless, the Soviet Union has not only long ago deployed ABM defenses but for years has been spending heavily and working diligently to improve and expand them into a capability to deploy a nationwide network. We are engaged in a race.

It is crucial that America win that race. It is not another arms race.

In American hands, the ABM defensive capability that SDI can give us will be a peace shield deterring a Soviet first strike.

But should the Soviets deploy ABM defenses while we remain defenseless, that monopoly ABM capability could become an instrument of nuclear extortion in the hands of a Kremlin that holds both the sword and the shield.

Finally, to those who do not find these facts threatening because they perceive a new and different Soviet leader and Soviet Union, a thaw or even an end to the cold war, I must point out that history teaches very clearly that optimism is luxury affordable by the nation ready to defend itself but very costly and even fatal to the nation that remains undefended and vulnerable.

But even putting the best face upon superpower relationships, there remains hideously plausible and even probable the scenario of Israel, defenseless against ballistic missile attack, suffering a second and final holocaust as nuclear or chemical warheads rain down upon her. Israel is surrounded by hostile neighbors who either have or are hell bent upon obtaining the kind of missile capability that could deal such a death blow.

It is patently urgent that Israel not suffer the delay or termination of the arrow program on which her life may well depend—which is threatened if not assured by a House vote to cut SDI funding to $2.8 billion, or 60 percent of the President's request.

The President is not only fully justified but obligated to veto the defense authorization bill if the House persists in voting so dangerously inadequate a sum for SDI, in apparent contempt or indifference for the President's request and for the safety of Israel. The President should clearly inform the House that he will veto the bill if the House adopts a figure so low as to virtually assure that a conference cannot adequately fund SDI. He should do so before the House vote. Then if the House persists after warning, he must of course veto the bill.

The President is obliged to take this course not only to safeguard the people of America's strategic ally, Israel, but to safeguard the American people as well. The kind of conflagration that would be ignited by a missile attack upon Israel might very well and very quickly spread to engulf others.

Mr. President, let all who care about the safety of Isreal and of the American people make clear to their Member of Congress that we cannot accept the House-proposed cut in SDI funding.

EXHIBIT 1

DEPARTMENT OF DEFENSE,
STRATEGIC DEFENSE INITIATIVE ORGANIZATION,
Washington, DC, July 7, 1989.

Hon. PETE WILSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR WILSON: During my testimony before the Subcommittee on Strategic Forces and Nuclear Deterrence, Committee on Armed Services, you asked that I prepare an impact paper on the effects to the Strategic Defense Initiative [SDI] program of receiving a 10 percent, 20 percent, or 30 percent reduction off the requested level for fiscal year 1990. I have completed the assessment and forward the information herewith.

You will note that each incremental funding reduction from the current budget would have increasingly serious consequences for the SDI program. Specifically, options for deployment decisions, demonstration and validation of follow-on technologies, allied support, and arms control leverage would all be affected by budget reductions. The President's fiscal year 1990 requested level for the SDI program must be upheld.

I appreciate your interest in this very important issue. Please do not hesitate to contact me if I can be of additional assistance.

Sincerely,

GEORGE L. MONAHAN, Jr.,
Lieutenant General, USAF, Director.

Enclosure as stated.

This paper responds to a request from Senator Pete Wilson to Lieutenant General Monahan during the General's testimony to the Senate Armed Services Committee on 15 June 1989. The Senator requested an analysis of the impact of a 10 percent, 20 percent and 30 percent reduction to the current ($4.6B) FY 1990 budget request.

INTRODUCTION

The current program is structured to permit a deployment decision by the President within the next four years. It anticipates total funding of $4.6 billion in FY 1990 and $33 billion across the Five Year Defense Program (FYDP). The program goals remain the same as those formulated under the prior Administration's budget and, therefore, the general framework of the program is unchanged:

Pursuit of both space- and ground-based defenses;

Continuation on the path to deployment of a system that meets JCS requirements for a Phase I Strategic Defense System;

Close adherence with the deployment schedule presented to the Congress with the January 1989 FYDP; with

Flexibility to adjust the program as technology is tested and proven.

Near term efforts focus on evaluating the potential of the most rapidly advancing technologies. In particular, evaluation of the Brilliant Pebbles concept is emphasized.

The current budget is substantially less than the January 1989 FY 1990/1991 (Reagan) request which was based on funding of $5.6 billion in FY 1990 and $40.6 billion across the FYDP. Funds now requested are the minimum needed to meet the goals established for the SDI by the President.

As outlined on the following pages, each incremental funding reduction from the current budget would have increasingly serious consequences. The items most affected would be:

The timeliness and choice of options for a deployment decision;

The development and validation of advanced concepts for follow-on Phases;

Allied support; and

Leverage the SDI program provides in arms control negotiations.

Since follow-on systems will have to be deployed in a timely fashion to offset possible Soviet countermeasures to initial defenses, it is important that initial and follow-on phase efforts remain appropriately balanced. Budget reductions from current levels may force both a delay in projects supporting an initial phase of a future Strategic Defense System, but an even longer delay in projects which support follow-on systems. This outcome could force a major redirection of the program.

The impact of successive budget reductions would also produce increasingly serious damage to the SDI program infrastructure. Efforts of past years have coalesced technology into identifiable initial strategic defense system elements and architecture (i.e. a Dem/Val program), and several ground-based and space-based follow-on element concepts. To capitalize on this progress we have awarded many multi-million dollar, long term contracts, and established appropriate program offices. Even at the 90 percent level we will have to begin dismantling this infrastructure, incur additional costs due to program stretch-out and contract renegotiation/termination, force layoffs, and suffer losses of skilled scientists and engineers.

Although decisions on specific program cancellations/slowdowns and contract terminations/renegotiations will require additional study, the table at the end of this report lists most major SDI programs and primary contractors, and identifies the possible outcomes at each funding level.

Regardless of the SDI budget level approved, it is crucial that SDIO have the flexibility to adjust funding among the various programs and not be constrained by "fences" imposed by the Congress. SDI is still evolving, many technologies are developing rapidly, and international conditions cannot be confidently predicted. Changes may require the reordering of SDI program priorities and reallocation of available funds in order to attain program objectives and maximize the contribution of the SDI to National Defense.

The following impact assessments assume that the 10, 20 and 30 percent reductions are applied to each year of the FYDP.

IMPACT TO PROGRAM IF FUNDED AT 70 PERCENT OF CURRENT REQUEST

This funding level could not support the research and testing needed to make an informed deployment decision within four years.

U.S. funding for most Allied cooperative programs would be terminated.

If we are to continue development of layered defenses that meet JCS requirements, Directed Energy and Advanced Technology programs for follow-on systems would have to be canceled and/or minimally funded.

All aspects of the program would be fund-limited, rather than free to advance at the pace technology is developed.

An initial deployment would be delayed until well after the year 2000, with no provision for follow-on systems to offset Soviet countermeasures to the initially deployed system.

The national workforce currently planned for FY 1990 SDI research would be reduced by more than 8000 personnel.

IMPACT TO PROGRAM IF FUNDED AT 80 PERCENT OF CURRENT REQUEST

The likelihood of making a deployment decision within four years would be further reduced due to an even lower level of research in technical risk, cost reduction, and key technology areas. For example:

Fewer flight tests of interceptors and sensors and ground simulators.

Cancellation, or up to three year delay of vital survivability and hardening measures.

Slowing of advanced materials program. This will affect the quality of estimates on producibility, manufacturing costs, life cycle costs, and life duration.

Emerging concepts, especially Brilliant Pebbles, would not be fully explored. The space architecture could, therefore, not be completely defined.

Additional U.S. Terminal Interceptor (including the Anti-Tactical Ballistic Missile) research may be canceled and Allied testing and participation would, therefore, be further limited.

Directed Energy and Advanced Technology programs would remain in the laboratory as the more expensive technology integration experiments would be unaffordable.

Follow-on systems would not be available in time to offset Soviet countermeasures to an initial U.S. strategic defense system.

Initial system development/deployment schedules would be delayed at least two years.

The national workforce currently planned for FY 1990 SDI research may be reduced by more than 6000 personnel.

IMPACT TO PROGRAM IF FUNDED AT 90 PERCENT OF CURRENT REQUEST

An informed decision on deployment may not be possible within four years. Reduced funding would bring about a lower level of research in technical risk, cost reduction, and key technology areas. Planned research in these areas is critical for a confident decision.

A delay of up to one year for the deployment decision can be expected, with corresponding delays for development and deployment schedules.

Some U.S. Terminal Interceptor (including the Anti-Tactical Ballistic Missile) research may be canceled and Allied testing and participation would, therefore, be limited.

A number of experiments critical to proving important technologies would be delayed or canceled.

Directed Energy and Advanced Technology programs would be slowed to the point where follow-on systems may not be available in time to offset possible Soviet countermeasures to an initial U.S. strategic defense system.

The national workforce currently planned for FY 1990 SDI research may be reduced by more than 3500 personnel.

Program	Contractor	90 percent			80 percent			70 percent		
			or			or			or	
		None	Slow	Cancel	None	Slow	Cancel	None	Slow	Cancel
Ground-based interceptor	(Not determined)	X	X			X			X	
Endoatmospheric interceptor (HEDI)	McDonnell Douglas	X	X			X	X		X	X
Airborne optical adjunct	Boeing	X	X		X	X			X	X
National test bed	Martin Marietta	X	X			X			X	
Extended range interceptor	LTV		X	X		X	X		X	X
ARROW missile	Israel	X	X		X	X			X	X
Tactical high altitude area defense	(Not determined)	X	X			X			X	X
Chemical laser	Martin Marietta, TRW		X			X			X	X
Free electron laser	Lockheed, TRW, Boeing		X			X			X	X
Neutral particle beam	Grumann, Boeing, Westinghouse, SAI, McDonnell Douglas, approx 15 others		X			X			X	X

Although decisions on specific program cancellation/slowdowns and contract terminations/renegotiations will require additional study, this table lists most major SDI programs and primary contractors, and identifies the possible outcomes at each funding level.

MEDICAL CARE IN RURAL AMERICA

Mr. BENTSEN. Mr. President, 2 years ago, Brad Bell was driving across west Texas in his pickup truck. All of a sudden a duster plane hit his truck, smashed in the window, tore up the door and flipped his truck over. Someone saw him, came rushing up, sure that he was dead, but fortunately he was not. One of the fortunate things was that they were able to contact a helicopter service that rushed him to a hospital. They went to that remote area to bring skilled medical care. They were on their way to Seminole when they realized he needed that special care. The helicopter was available and he is alive today.

But historically, and it is part of an excellent series in the Lubbock Avalanche-Journal on health care in rural areas. It should remind us that rural areas are risky; farming's 52 percent on-the-job death rate is the highest of any job category in America. That is for farmers and that is for people working on the farm. There are other jobs in rural America that are dangerous, too, when you have a roughneck bringing in a well or a pilot dusting crops or someone working in a quarry with a drill hammer. So these are some of the concerns that face us in rural America.

Not everyone in rural America is as lucky as Brad Bell, and increasingly for them health care is becoming more difficult to obtain. That is why it is with great pleasure that I am a cosponsor of Senate bill 1036, a bill that, thanks to the work of Senator LEAHY and others, can improve the access of medical care to rural America. They certainly do not have it now.

Between 1984 and 1988, 160 rural hospitals have closed in the United States. There were 44 last year alone. Nineteen of those were in Texas. Of course, that gives me a particular area for concern, but it goes far beyond the borders of Texas.

The chairman of the Appropriations Committee, the Senator from West Virginia, understands that well. A friend of mine last week told me about his son being out in a ski area of West Virginia last year, and some of the kids were horsing around that night in the lodge. One of them jumped across the bed, fell on the bed with his boots, hit on his son who was under the blankets—the kid did not know he was there—ruptured his spleen; ruptured his liver, tore him up internally. After a while the pain began to subside after he had taken some aspirin. He thought he was all right and went to sleep. Next morning he awakened in a pool of blood. They found he had lost most of the blood in his body. And then what to do about it? The father was called and told of the accident. He gave permission to the doctor to operate. The doctor said, "I'm not a surgeon. I am the only doctor in this small community." He said, "I cannot take care of the problem, and your son will be dead in a couple of hours." They were able to get a helicopter in there and take him out and get him to appropriate medical care.

One of the things we are saying is that one survey suggesting that as many as 600 rural hospitals—600—could close by the year 1993. Sixty percent of the administrators of these rural hospitals think that their particular institution is vulnerable to failure. I know there are those who make economic reasons for keeping rural hospitals open. Sure, on a lot of occasions the hospital has more jobs than other businesses in the town. In other words, if you try to get businesses to come into town and tell them you have no hospital facilities available, it oftens turns them off.

But the most important reasons for addressing the problem is the most obvious and that is its effect on peoples' health. After all, how would we feel if we had a heart attack or a stroke here in Washington and the nearest ambulance was in Baltimore? That is what thousands of Texans face. And people in other rural parts of other States as seeing hospitals close time after time, 18 of them in different areas of Texas. It is a race over county roads to the nearest hospital.

What kinds of things can bring about that kind of desperation on the part of rural Americans? All kinds of things can happen. They can have a shotgun blast; a gun that goes off accidentally or shooting at a pheasant and happens to shoot a friend who is with him; electrical shocks; they can be caught in a flash flood; a kid who cannot swim falls into a pond; kicked by a horse; run over by a tractor. I have seen those happen. Each year in Texas alone there are about 90 farm-related deaths, many of them that the doctors tell us are tractor related. I can recall driving a tractor on a hillside and having my youngest son near me and having it strike a rock and roll on me and throw my youngest son off the top side to keep from hitting him. I remember the burns I suffered as the exhaust pipe burned me as I was lying there on my side.

There are an estimated 100 disabling injuries, 1,200 serious injuries, 36 minor injuries. I am not just worried about the emergency care for farmers. What about the elderly, 12 percent of the Nation but 25 percent of rural America? The kind of people I admire, people like Elsie Popjoy from Sundown, TX. She says, "I'm old, but I'm awfully tough," she said last year. She was 90 then. She had cancer, but she still worked around the House. Every morning she took a walk. Whenever she had to see a doctor, her son had to take time off from work and drive an hour to the hospital. He had to do that until her death.

What can we do to provide better health care to those people in rural America? One of the reasons is the Medicare prospective payments system is just not fair to rural hospitals. You take the same operation, the same procedure and they are being paid from 10 to 12 percent below what the urban hospital is paid.

I am not trying to say to you that all rural hospitals should stay open. I know some of them are just not economically viable. But I think the vast majority of them should, and that is why I have joined with others to bring about legislation that would equate those payments between the urban and the rural areas to try to keep some of them open. That is legislation that I have introduced and it is going to be working to bring that about. I ask the support and the help of the Members of the Senate in bringing that about.

How could anyone doubt the effectiveness of this idea? How could anyone, in an age when the events in Beijing are seen instantly by people sitting in their offices in Washington, doubt that doctors in a farm town can be hooked up to colleagues and equipment say 100 miles away?

I know we can do that. Because we're doing it in Texas—in a demonstration project I am pleased to say was authorized by a provision I wrote into the 1987 reconciliation bill.

Let's say a patient comes in to one of the two doctors in Cochran County, TX, with a broken arm. These days, thanks to a new program, his doctor is linked by a computer to doctors at Texas Tech. By pushing a button he can exchange information with an orthopedist. Pretty soon they will be able to transmit x rays. According to the Cochran County doctors it is like having a number of consultants just down the hall.

Mr. President, in some ways rural Americans are cut off from their fellow citizens. But the jobs they do are vital for the rest of us. When somebody in Washington gets in their car and drives to Safeway to buy food for a Sunday barbecue, they should remember that. That should remember that the gasoline in their tank, the sirloins in the meat locker, the corn in the freezer all came from people farming or ranching or drilling in rural America.

They help us. But when it comes to health care, they need help from us. And they're not getting it.

That is what Senator LEAHY's bill aims to do. That is why I am for it.

Brad Bell does not remember the accident that changed his life 2 years ago. He slammed his head too hard. He is back at work, though, tending to his cotton crop. But there is a lesson in that accident—and its happy outcome—that the rest of us should never forget. It is this: Measures like this one small part of Senator LEAHY's bill save lives.

They are not the lives of famous people. They are not the lives of powerful people. They are simply the lives of average citizens in every State in America.

That makes this bill incalculably important to them. And should make it just as important to us.

Mr. MURKOWSKI addressed the Chair.

The PRESIDENT pro tempore. The junior Senator from Alaska [Mr. MURKOWSKI] is recognized for not to exceed 5 minutes.

THE NEED TO CURB THE FLAGRANT ABUSE OF BROKERED DEPOSITS

Mr. MURKOWSKI. Mr. President, when this body considered the savings and loan bailout legislation, I offered an amendment to limit the use of brokered deposits by financially troubled institutions. After discussing the merits of this amendment at length with the distinguished chairman and ranking member of the Banking Committee, this body unanimously agreed to my amendment.

WHAT AMENDMENT DOES

Mr. President, my amendment prohibits banks and thrifts that do not meet minimum capital requirements from using federally insured brokered deposits. These institutions would have an option, however, of making an application to the FDIC to waive this prohibition. A waiver would be available if the FDIC makes a determination, in advance, that the use of bro-

kered deposits by that particular institution does not constitute an unsound banking practice.

WAIVER GIVE FDIC DISCRETION AND CREATES ACCOUNTABILITY

The purpose of the waiver clause is to give FDIC the discretion to permit the use of brokered deposits when it deems it appropriate based on the specific facts of a specific case. When used by sound institutions in a commercially reasonable manner, brokered deposits can be beneficial. The goal of my amendment is to prevent the flagrant abuse of the deposit insurance system by troubled institutions that take excessive risks and leave the taxpayers to suffer the consequences. By preventing troubled institutions from using brokered deposits unless permitted to do so by the FDIC, we accomplish this goal and create accountability on the part of the FDIC.

HOUSE PASSAGE OF SIMILAR AMENDMENT

Mr. President, the House has also recognized the need to limit the abuses associated with brokered deposits. The House included in their version of this legislation a provision sponsored by Congressman STEPHEN NEAL of North Carolina which is very similar to the amendment which I offered.

CONFERENCE COMMITTEE—DO NOT WEAKEN LANGUAGE

Mr. President, it is my understanding that the conference committee will be taking up the issue of brokered deposits some time next week. I would like to reemphasize to my colleagues on the committee that it is imperative that Congress curtail the abuses that contributed to the current banking crisis. We are asking taxpayers to spend $157 billion to clean up an industry that has all to often become infected by fraud and abuse. Without meaningful restrictions on brokered deposits, and some of the other games that the industry has played, we will be going back to the American taxpayers again in a few years to clean up this industry again.

CONSTITUENT LETTER—EXAMPLE OF ABUSE

Mr. President, I would like to take a moment to share with my colleagues portions of a letter that I recently received from a constituent, and friend, who is a prominent banker in my State. The letter states:

The regulators now state that they will be able to "control" the use of brokered CDs. Their record certainly shows no such ability! Ask the FHLBB to describe Sunbelt Savings and Loan to you. Ask how that monstrosity funded itself? And ask them about Alliance Bank in Alaska?

Senator Murkowski, as you know, our bank acquired the deposits on a "clean bank" basis of three banks in the last two years. Each one used brokered CDs. By using them, these banks were continued in existence long after they should have failed * * * thereby increasing the losses to the FDIC. Alliance Bank was by far the worst.

As you know, Alliance was formed with substantial FDIC assistance from the insolvent Alaska Mutual Bank, United Bank of Alaska and United Bank Southeast. The regulators allowed the new Alliance Bank to be formed relying on brokered CDs. When Alliance failed in April, it had $725,000,000 in deposits, of which $514,000,000 were brokered deposits. The bank was in such poor condition that we won on a "clean bank" basis with a $8,000,000 negative premium bid. FDIC will have lost in my opinion around $700,000,000 on Alliance, Alaska Mutual and United Bank of Alaska. That's more than $1000 for every man, woman and child in Alaska. This could not have been accomplished without brokered CDs.

Your proposal, as we understand it, is to have FDIC certify for each capital-impaired bank, that the use of brokered CDs is a safe and sound banking practice. What is so terrible about that? Does the FDIC want financial institutions engaging in unsafe and unsound banking practices?

Mr. President, unfortunately the abuses described in this letter are not unusual to Alaska, Texas, California, or any other State. These abuses have taken place all over the country, and will continue take place unless we act now.

CONCLUSION

Finally, Mr. President, I would like to reiterate to my colleagues on the conference committee that my amendment is designed to reign in the abuses of brokered deposits by troubled institutions and to create accountability on the part of the Federal regulators. This is not a blanket prohibition on the use of brokered deposits, but a narrowly drawn provision that specifically targets the most flagrant abusers. A provision intended to protect the taxpayers of this country.

DEATH OF HARVEY MALLOVE, NEW LONDON, CT

Mr. DODD. Mr. President, I would like to spend a few minutes today talking about a close friend of mine who passed away recently. Harvey Mallove was one of the best-known, and certainly one of the best-loved, individuals in the city of New London, CT.

Harvey's position in the community was a notable one. He was perhaps the most influential figure in city politics, holding a variety of elected posts and working behind the scenes. Harvey served two terms as mayor of New London, and many years on the city council. He chaired the city's redevelopment agency, guiding the way for construction projects which revitalized the New London's core. His jewelry store remained downtown after many neighboring businesses left for the suburbs.

Harvey's importance in New London assured that he would be well-known, but it was his tremendous caring for others that caused him to be so widely loved. He was on a first-name basis with, it seemed, the entire State. He would chat with everyone who came to his store, asking about family and friends, passing on news about mutual acquaintances. But Harvey did not make mere facile friendships; rather he had deep concern for the many people he knew.

Rarely has there been a man more generously than Harvey Mallove. He was always willing to help people facing crises, whether they be personal, financial or emotional. He created a scholarship to help area students attend college. He contributed to a vast array of charities; his business helped out many others.

I mourn the loss of such a fine man and dear friend as Harvey Mallove. The director of my Connecticut office, Stanley Israelite, who knew Harvey better than almost anyone else, delivered the eulogy at the funeral. I ask permission to insert that eulogy in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

EULOGY FOR JAY BY STANLEY ISRAELITE

HARVEY MALLOVE'S SERVICE, CONGREGATION BETH EL, NEW LONDON, JULY 2, 1989

This is a very tough job for me, saying good bye to your best friend, being involved and caring so much for this wonderful loving family. Feeling their pain. How hard this support team worked, but it was all beyond our control.

I shall try not to cry—and to share with you my feelings, which I am sure in one way or another are manifested with all of you here today.

If I use the name Jay, you will understand I'm speaking about Harvey. For that was the name we had for each other. It was an inside joke, but a symbol of our affection for each other.

In a book of meditations that I have, I found something that I believe was Jay's creed:

"Friendship is like the air we breathe. We cannot live without it. We are not designed for loneliness. We thrive on the opportunity of human response. If we need to receive the love of others, we also need to give love. If we need to feel the concern of others, we also need to give our care. To cry alone, to laugh alone, to think without the challenge of other minds and other voices is to cease to be human. In a world without familiar people, no man can become a person."

No man is an island
No man stands alone
Each man's joy is joy to me
Each man's grief is my own.
We need one another
So will I defend
Each man as my brother
Each man as my friend.

Harvey was my beloved cousin and friend. We were always on the same wavelength. We were able to communicate even just by glances. We were able to share family stories of when we were kids. When I was in need he stretched out his hand. When I mourned, he mourned. He shared in my successes and joy with the pride of a brother.

I never ceased being amazed by his friendships. Whenever we would be together, people by the droves would come over from all walks of life. There was always that big hug and kiss or hearty handshake.

As a people person, he was a superstar. A man with friendships like no other I have ever met or probably will meet again. I liken him to a great artist. He was able to take the threads of friendship and weave them into beautiful tapestries. All one needs to do is look around here today. We're here today because this family, my Jay, touched your life in some way. Even the weddings he performed. As a justice of the peace, all you need do is read the written text as provided by the State. But he wrote his own service to try and give an added meaning, to send a message of love and caring.

Angie: What you shared almost every night in those late night phone calls and in your walks—there will be no more.

Sully, Frank, Tucker, Harry, Dave: New London will go on, but what a spirited worker you had in him. When he would talk to me about his New London, his face would light up. He suffered the thousand frustrations of public service but still kept pushing on. He was on the front line, and when you're there you make the tough decisions. There's always someone trying to blow you out of the water. His dreams for his New London were endless. They can be seen today. But we will go on.

Alvin, Ronnie: Your other manager of the Groton Motor Inn has left you. We will go on.

Bake, Ted, Marty, Barbara, Alatherius, Esposia: Your beautiful island, his island will never be the same. The wonderful memories will last. Even in St. Mararten, the friendships of this tapestry grew.

His home was truly his castle and Roz his queen. The door was always open to all. A home where there was love and affection. A home where programs were started, fundraisers, people programs, ideas were hatched. But above all, what always stood out in my mind: That all the kids knew it was an open door. All of the children's friends were there all the time and in the middle was my friend, Jay, being one of them. Young and old alike weaving this beautiful fine tapestry of friends with Jay in the middle: All of you will always remember. And we will go on.

Over these past several weeks, I had the opportunity to spend some private time with my friend. One day as we rode around New London with just chatter about this and that. We finally talked about his illness and what was ahead. He said to me, "You know, Jay, I'm not scared of dying. I don't want to, but let's face it, I've had a pretty good whack at it. What does bother me is thinking about Roz, the kids and my mother, hoping that they will be OK." All that I could do was tell him he had a tough fight on his hands and we would all be there for support. Then we talked of how blessed he was with his support team, a courageous wife and fine family and if he were to die he created one helluva team. We both cried a bit, looked at each other. The rest was a lot of understanding.

Roz, Danny and Althena, Lisie and Jim, Kathy and Martin, Ritchie and Jimmy: I haven't said anything you didn't already know. Look about you. Find comfort in what we all here share with you today.

He was a precious jewel, a perfect diamond whose facets are reflected in all of you. Diamonds are forever and my Jay is forever. He is gone and we will miss him, but his reflections will be forever.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, today is the 1,585th day that Terry Anderson has been held in captivity in Beirut.

On March 16, 1988, a date which then marked the third year that Terry Anderson had been held captive, an editorial by one of Terry Anderson's colleagues appeared in the New York Times.

I ask unanimous consent that this editorial be inserted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 16, 1988]

TERRY ANDERSON, DEVALUED

(By Larry Pintak)

SARASOTA, FL.—Since the morning of March 16, 1985, when Terry Anderson, an Associated Press correspondent, was dragged from a car in West Beirut, his whole world has been a series of damp basements and cramped rooms. His companions have been a blindfold and a chain. Fear, loneliness and doubt have kept vigil with him through the long nights.

Terry's daughter will soon be 3 years old. But Terry has never touched her face, never held her in his arms. He has seen her only as a fleeting image on a videotape his captors allowed him to watch. Terry does not know that his father and brother are both dead; he does not know that they died praying to see him one last time.

Yet there are many things Terry does know. From the letters and occasional newspapers that have reached him, he knows that the Reagan Administration negotiated to win freedom for hostages on a TWA jetliner. He knows the Administration swapped a Soviet spy for an American newsman, Nicholas Daniloff. He knows that it traded arms for some of the other hostages in Lebanon; he watched three of them walk from his cell to freedom. Now, he knows, the deal has collapsed and he's been left behind.

Terry is not alone in his suffering. Eight more Americans and at least a dozen other Westerners share his ordeal. After Terry, Thomas Sutherland, dean of agriculture at the American University of Beirut, is the longest serving hostage. He recently marked his 1,000th day in captivity. Lieut. Col. William R. Higgins is the latest arrival, living testimony to the fact that, even after a parade of disasters, the Administration still does not understand the nature of Lebanon.

When the President, at a news conference on Feb. 24, virtually dared the faceless men in Beirut to try to torture information out of Colonel Higgins, the comment could not be clarified away by the White House media managers. The captors closely monitor Administration remarks.

The kidnappers have specific demands. They want 17 terrorists held in Kuwaiti jails to be freed. Although Algeria offered to act as an intermediary in negotiations, the White House instead sent a group of amateur spies and adventurers to deal with Iran. The result: More hostages were taken.

In Washington, the people who helped put those Americans in chains are running for cover. The hostages have become a hot political issue, one that is being filed away for the next Administration. As one bureaucrat told Terry's sister, "The hostages have been devalued." A grim thought on a grim anniversary.

ADMINISTRATION DENIAL OF EXPORT LICENSE TO INDIA FOR BALLISTIC MISSILE TEST DEVICE

Mr. BINGAMAN. Mr. President, earlier this year I learned that the Department of Commerce had received applications from two United States firms for a license to export a Combined Acceleration Vibration Climatic Test System [CAVCTS] to India. Over the past several years, I have become increasingly concerned about the proliferation to developing countries of ballistic and cruise missiles capable of carrying nuclear and chemical warheads. This has occurred despite the fact that in 1987 the United States, Canada, France, Japan, West Germany, Italy, and the United Kingdom adopted the Missile Technology Control Regime [MTCR] to limit the proliferation of missiles and missile technology. I believe that we and our partners in the MTCR have not adequately addressed the implementation and strengthening of the MTCR.

In response to the information I received about the export application for the CAVCTS, otherwise known as the shake and bake device because it simulates the heat and vibration encountered by a reentry vehicle as it returns to the atmosphere, I wrote Secretary Mosbacher and urged him to deny the license. Following my intervention, a determination was made that the CAVCTS belongs on the munitions control list and is subject to the MTCR, annex I. The case was transferred from the Commerce Department to the Office of Munitions Control of the Department of State, where an interagency team reviewed the application. Pursuant to that review, the State Department announced on July 14 that the license was denied.

I applaud this decision as a reaffirmation of our commitment to fulfill our obligations under the MTCR in a restrictive manner. We should not be looking for loopholes in the agreement, nor should our allies. And I congratulate Secretary of State Baker, Secretary of Defense Cheney and Secretary of Commerce Mosbacher for their work in this instance in preventing the spread of ballistic missile technology.

Mr. President, despite concerns expressed by Congress and the administration about India's Agni missile program, India recently successfully tested the missile. Moreover, on July 6, the Wall Street Journal reported that the Agni may not, as India claims, be entirely indigenously produced. There are indications that DLR, a West German firm, is involved in both the Indian missile program and the United States space program, raising the ominous prospect that our technology is indirectly helping the

Indian Government extend the range of the Agni ballistic missile.

I am concerned about these reports. I am concerned that we ourselves may not be doing enough to enforce the MTCR, and I am concerned that our allies may be transferring missile technology without regard for the MTCR.

I believe that the administration decision to deny an export license for the CAVCTS is the first in a series of steps that need to be taken, not just in regard to India's program, but in regard to the worldwide proliferation of ballistic and cruise missiles and missile technology. There are other applications for the export of missile technology that are now pending. These cases should receive the attention of senior officials in the administration, with a presumption that export licenses will be denied where the possibility exists that the technology in question will contribute to the proliferation of missile systems, consistent with the broadest reading of our obligations under the Missile Technology Control Regime. We must set an example for all MTCR adherents to follow.

In particular, I urge the administration to press the French Government to reaffirm its commitment to the MTCR, as we have pressed other signatories to the MTCR to fulfill their obligations. The French-led European consortium Arianespace has reportedly offered Viking liquid rocket engine technology to Brazil, as part of a broader agreement to win satellite launch contracts. Transfer of this technology would appear to be in violation of the MTCR.

A report in today's Washington Times indicates that the French Embassy in Brasilia has notified the United States Embassy there that France has granted preliminary approval for the transfer. This will only fuel a regional race between Brazil and Argentina to develop ballistic missiles, and undo some successes we have had in slowing the Argentinian effort. It is of even greater concern because of reported Libyan entreaties to Brazil for help in developing its own ballistic missile development capability and reported Libyan offers to cofinance or purchase outright a Brazilian or Chinese ballistic missile.

This deal may add export sales to Arianespace, but it is not worth changing the military equation in the Middle East, Africa, and beyond. The Libyans have already demonstrated their willingness to fire missiles at the United States and our allies when they fired at least two Soviet-built Scud B missiles at United States installations on the Italian island of Lampedusa in 1986, and there is little prospect that responsibility will reign in Libya with the acquisition of ballistic missiles. Therefore, Mr. President, this deal must be stopped.

I intend to pursue these and other cases further. I ask my colleagues to take a moment as well to consider the dangers that the spread of ballistic and cruise missiles present and the actions that we can take here in the Senate to further close the door on missile proliferation. I urge those of my colleagues who have not yet done so to take a look at the Missile Control Act, S. 1227, which I introduced June 22 and which currently has 15 cosponsors.

I ask that the July 6, 1989, Wall Street Journal article entitled "Space Research Fuels Arms Proliferation," the July 17, 1989, Washington Post article "U.S. to Bar India's Buying Missile Device," and the July 18, 1989, Washington Times article "France To Put Missile Secrets in Reach of Libya" be included in the RECORD at the end of my remarks.

The material follows:

[From the Wall Street Journal, July, 6, 1989]

SPACE RESEARCH FUELS ARMS PROLIFERATION

(By John J. Fialka)

WASHINGTON.—After India launched its first intermediate-range ballistic missile in May, Prime Minister Rajiv Gandhi hailed it as an "indigenous development," the product of 15 Indian military research laboratories.

But the real parenthood of this missile, called the Agni, is being questioned. Central Intellgience Agency analysts see a remarkable resemblance to the design of rockets developed by the U.S. in the 1960s. And a private weapons-system expert says the Agni's brain, nose cone and main engine look distinctly West German.

The spillover of technology from "peaceful" space research to ballistic-weapons programs present a growing and embarrassing problem to major powers such the the U.S. and West Germany, two of seven industrial nations that signed an agreement two years ago to limit the proliferation of missile-related technology.

Last week, Prime Minister Gandhi was quoted as saying that "ambassadors of certain foreign powers" had threatened to take action against India if it test-fired the Agni. He didn't identify the embassies. "I told them clearly that India would carry out the launching and we would not change our decision under pressure," Indian news agencies quoted Mr. Gandhi as telling a public meeting in central India. At the time of the Agni launch, the U.S. condemned it as a dangerous extension of the arms race.

A spokesman for the Indian Embassy in Washington denied the Agni was designed with U.S. or German help. The main components of the Agni are "not based on any imported technology," he said.

But Gary Milhollin, an engineer who studies the spread of nuclear warheads and the missiles that carry them, says the 1,550-mile-range Agni uses a guidance system, a first-stage rocket and a composite nose cone that were developed for India by the German Aerospace Research Establishment, a government agency.

Dietmar Wurzel, head of the German agency's Washington office, said his agency won't comment on Mr. Milhollin's charges, calling them unproved "suppositions" that joint German-Indian work on India's space program was exploited by India's missile program. In a statement, Mr. Wurzel said the U.S. may have had more direct involvement in the Agni than Germany did, becuase the National Aeronautics and Space Administration trained the engineer who heads the missile's design team, A.P.J. Abdul Kalam.

With the Agni's launch on May 20, India became the first Third World nation to admit developing an intermediate-range ballistic missile. But others, including Argentina and Brazil, are considered close behind, China, an ally of India's longtime enemy, Pakistan, has had intercontinental missiles for years. And NBC news reported last week that Iraq is using U.S. technology, purchased for it by Austrian and West German companies, to develop a medium-range missile that could carry chemical, conventional and nuclear warheads.

PROLIFERATION WORSENING

CIA chief William Webster is among Bush administration officials who worry that space research is being used "as a conduit" for missile development. He told a Senate committee in May that "the missile proliferation problem will affect every region of the world. It will become worse—and may never become better."

Mr. Milhollin says documents issued by the Indian and German space agencies show that Indian scientists were given on-the-job training by the German agency in manufacturing carbon fiber composites and reinforced plastics used in nose cones and rocket engine nozzles.

In addition, he says, German microprocessors and software, developed jointly with India for a 1982 space experiment, became the guidance system for the Agni. Guidance systems are crucial for ballistic missiles. They sense direction and speed to manage the accurate re-entry of warheads, which can carry nuclear or conventional explosives or poison chemicals.

The first stage of India's space-launch vehicle, Mr. Milhollin says, became the first stage of the Agni missile. The rocket was first tested in a West German wind tunnel in 1974, he says.

The U.S. contribution to the Indian missile began in the mid-1960's when Mr. Kalam and five other Indian scientists came to NASA's Wallops Island Rocketry Center in Virginia. "They had very little knowledge of rockets," says Robert Duffy, the center's deputy director of operations. He says the official reason for their visit was to conduct joint rocket experiments on the earth's magnetic field, "But they were interested in everything."

INTEREST IN SCOUT ROCKET

The Indian Embassy spokesman dismissed the suggestion that Mr. Kalam acquired vital training in the U.S. Mr. Kalam spent only four months studying rocket technology in the U.S., he said. It is "incorrect to say that he acquired his expertise in the United States."

One of India's interests during the visit to Wallops Island appeared to be the U.S. Scout rocket, derived in the 1950s from the Polaris submarine ballistic missle. The Scout was used in scientific experiments at the time at Wallops Island, and, CIA officials say, "closely resembles" drawings that have been released of Indian rockets.

Mr. Kalam, who designed India's first space-launch vehicles, since 1983 has headed the Defence Research & Development Laboratory, which put together the Agni. The missile's range gives India the power to hit

targets in China. It also presents a further menace to Pakistan, where Pakistani scientists who were also given their initial training at Wallops Island are believed to be working on their own "indigenous" missile program.

The extent of America's contribution to India's missile program is the subject of a battle still being waged within the Bush administration over a Commerce Department proposal to export a device rocket engineers call "shake and bake." It simulates the heat and shock of re-entry into earth's atmosphere for testing various materials and devices.

The Commerce Department argues that it approved India's proposal to buy the device before the U.S. tightened controls on space technology in 1987. The Defense Department, says one official, asserts that the only use for the device would be to test missile warheads.

Sen. Jeff Bingaman, a New Mexico Democrat who has closely followed the missile proliferation issue, says the State Department must reject the sale. "Selling a shake and bake to India after the Agni test would be a clear signal that we really aren't serious about missile control."

[From the Washington Post, July 17, 1989]

U.S. To Bar India's Buying Missile Device

(By David B. Ottaway)

The Bush administration has decided to ban the sale to India of a sophisticated missile-testing device, and has expressed "concern" to France about reports of an offer to sell advanced rocket technology to Brazil, according to U.S. officials.

The two steps reflects a toughening U.S. stand on an increasingly complex problem: the sale of sophisticated Western technology and know-how to Third World nations seeking to develop their own ballistic missiles.

A license for the sale to India of a $1.2 million Combined Acceleration Vibration Climatic Test System (CAVCTS), used to put reentry vehicles under simulated stress, has been under intense debate within the U.S. government for the past two years, becoming a policy battleground for the Defense, State and Commerce departments and the Central Intelligence Agency.

The CIA and Pentagon have argued that CAVCTS technology could further India's efforts to develop intermediate-range missiles capable of carrying nuclear warheads. But the Commerce Department, noting that a now-expired export license had originally been approved for its sale in 1985, supported the sale.

The State Department is divided over the issue.

India's defense minister, K.C. Pant, who visited here in late June, sought to persuade the Bush administration to reverse its tentative decision to reject the sale. But a State Department official said last week: "It's been disapproved. It's dead."

Another official, explaining the decision, said Friday the denial was based on the longstanding U.S. policy of restricting exports that could contribute to missile development. "Specifically, the U.S. government is taking a restrictive approach to exports that can contribute to the development of ballistic missiles," he said.

"The denial in this case is based on the potential uses the CAVCTS would have had at India's Defense Research and Development Laboratory," which had sought the missile-testing device, he added.

As of Friday, however, official notification of this decision had not been delivered to the two American firms that manufactured the device, MB Dynamics and Wyle Laboratories, according to their attorney, Joseph F. Dennin.

Meanwhile, the United States has expressed to France its "concern" about reports that the French-led European consortium Arianespace has offered to provide Brazil with Viking rocket engine technology and extensive training for Brazilian missile technicians by French firms, if Brazil agrees to use the Ariane rocket to loft two new communications satellites.

Rep. Dante B. Fascell (D-Fla.), chairman of the House Foreign Affairs Committee, said Thursday at a hearing that he understood the French had made the offer as "a sweetener" to win the contract away from "the American company." That company was later identified as General Dynamics.

Fascell said a Brazilian decision was immiment. Another source said the committee had information that Brazil intended to make a decision by mid-July.

The same source said the French offer included giving Brazil the Viking rocket engine, which has a thrust of 160,000 to 185,000 pounds and is the booster for the first stage of the Ariane rocket. "It involves giving Brazil the total Viking engine technology," the source said.

Fascell said the administration should tell the French government not to provide the Viking to Brazil because this would be a violation of the Missile Technology Control Regime, to which France agreed to adhere in April 1987 with the United States, Canada, Japan, Italy, West Germany and Britain.

Vincent DeCain, deputy assistant secretary of state for politico-military affairs, said the administration was "very much aware" of the pending transaction.

"We are as concerned as you are about its implications," he told Fascell. "We have begun to take actions which we think are appropriate under the circumstances," he added, refusing to elaborate further in open session.

"I'll assume appropriate action means you told the French government not to do that," replied Fascell.

DeCain did not reply. But State Department officials indicated they were asking the French for more information about the reported French willingness to provide the technology, and were making known U.S. opposition to such action.

[From the Washington Times, July 18, 1989]

France To Put Missile Secrets in Reach of Libya

(By Clarence A. Robinson, Jr.)

Senior U.S. defense and arms control officials are worried that a French decision to transfer sensitive rocket technology to Brazil could result in intercontinental ballistic missile technology ending up in the hands of Libyan strongman Moammar Gadhafi.

According to the officials, the French Embassy in Brasilia has notified the U.S. Embassy there that France has granted preliminary approval for the transfer of technology relating to the Viking liquid rocket engine, used to propel the French Ariane space-launch vehicle.

A strong link exists between Brazil and Libya in developing and building ballistic missiles, said the officials, who asked not to be identified. Libya offered $2 billion to buy Brazil's latest theater ballistic missiles, according to a June 1988 report from then-Senate Armed Services Committee member Dan Quayle.

"To have France exporting technology to Brazil knowing of Libya's intense interest in acquiring long-range missiles is outrageous," one official said. "While the Europeans may wish to believe that the Soviet military threat is on the wane, threats from [a] Gadhafi armed with ICBMs would be a threat to all nations."

The technology transfer, the officials said, could be a serious violation of the Missile Technology Control Regime signed in 1987 by France, the United States, Canada, West Germany, Italy, Japan and the United Kingdom.

"Whether or not it becomes a violation will depend upon Brazil's use of the rocket engines," one official said. "Brazil's interest is strongest in fielding ballistic missiles, and that nation is considered a high-risk country in terms of missile proliferation."

One reason why the French company, Arianespace, is pressing a sale of the Viking rocket engine technology to Brazil is to win an estimated $60 million contract to launch two Brazilian communications satellites on the Ariane space-launch vehicle.

The French company is in fierce competition with a U.S. space-launch company, McDonnell Douglas, which has proposed using the Delta 2 launch vehicle. McDonnell Douglas is not offering technology transfer to Brazil.

In a May 18 report to the Senate on nuclear and missile proliferation, Bush administration aides said Brazil and Argentina are countries to watch. Each has taken steps since 1980 to develop nuclear weapons or to acquire them.

Brazil's civilian government is against nuclear arms, but the military wants that option, according to the report. The necessary nuclear research and development facilities are being built and are not under international inspection. Brazil is not a party to the Nuclear Non-Proliferation Treaty.

Vice President Quayle's report last year stated that Libya, Iraq, Iran, India, Egypt, North Korea, Pakistan, and Saudi Arabia had joined the military ballistic missile club. Use of the Viking motor for ICBMs could greatly increase Libya's striking range.

"Clearly, these and other Third World ballistic missiles pose a threat to U.S. and allied peace-keeping efforts in the Persian Gulf, the Middle East and Far East," the report said.

Mr. Quayle's report said the Brazilian company Orbita Aerospacial Systems has considered Libyan offers of financial assistance in developing a new family of ballistic missiles, known as MBEE.

The missile series will include boosters capable of delivering warheads of up to 1,980 pounds a distance of 620 miles. The deal, if concluded, may require manufacture of the missiles in Libya.

Brazil is moving toward placing its first satellite in orbit this year or early next year, and has made the military responsible for the management of missile development and nuclear research programs, the report said.

Libya's attempts to buy intermediate range ballistic missiles from Brazil and China prompted then-Defense Secretary Frank Carlucci to warn Congress last year about a potential Libyan nuclear threat to the United States.

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"Libya has also been attempting to establish its own ballistic missile development capability, and has been receiving assistance from German-owned firms, including OTRAG, which has built missile facilities in Libya," the report said. "They have established a secret missile test range in the Libyan desert in Tauwlwa, where work has focused on development of a 500-kilometer-range ballistic missile."

A number of firms in Western Europe are known to supply technical assistance to Third World ballistic missile programs, CIA Director William Webster told Congress two months ago. "This aid has included transfer of critical missile components and the direct participation of European missile specialists in missile development programs," Mr. Webster said.

The Ariane Viking rocket engine technology transfer deal also includes training Brazilians in European factories and at launch facilities, according to arms control officials.

The Viking rocket design is similar to a U.S. launch vehicle propulsion system, the Titan, which was used until recently as an ICBM armed with a large nuclear warhead.

"The French rocket motor for the Ariane is not a direct U.S. technology transfer," a NASA official said. The motor uses nitrogen tetroxide and hydrozine propellant. He said, "that same combination is used on the Titan 4 engines to develop a thrust of 200,000 pounds. This compares to a 150,000-pound thrust for the Ariane. Both launch vehicles use gas generator cycle engines."

"Unfortunately, most technologies applicable to a space launch program can be used in ballistic missile development," Mr. Webster said in his report to Congress. "Several countries have space and missile programs which overlap.

By the end of this century, up to 20 countries may have missiles, and many could be armed with chemical biological or nuclear warheads, according to congressional testimony by State Department officials. Many of these nations are located in regions where political tensions are high and the potential for conflict is great, such as the Middle East.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. ADAMS). Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., for the purpose of introducing legislation and constitutional amendments with regard to the desecration of the flag, with Senators permitted to speak therein for not to exceed 10 minutes. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

OUR GREATEST NATIONAL SYMBOL

Mr. BYRD. Mr. President, the Supreme Court ruling that the destruction of the American flag, as happened in a Texas case, can be an act protected under constitutional first amendment freedom of speech provisions shocked millions of Americans across this country. It shocked me.

Stemming from an incident that occurred outside the Republican National Convention in Dallas in 1984, this decision, in my opinion, irrationally stretches every concept of freedom of speech envisioned by the authors of the first amendment to the Constitution.

I cannot envision the Members of the House and Senate in the First Congress that met in 1789, the Members who wrote those amendments, 12 of them that were submitted to the States, 10 of which were ratified by the States, and I cannot envision the people of the country, who through their chosen representatives ratified that Bill of Rights, having in mind, even by the furthest stretch of the imagination, that the freedom of speech clause would ever be stretched to the extent that the Supreme Court has gone in this instance.

Over the years, many thoughtful writers and philosophers have sought to crystallize the meaning of the flag in American national life. That is a difficult task, because the American flag is tied to an intangible quality of faith and devotion uncommon in other nations around the world.

Perhaps the most perceptive symbolism is projected by those who hold that, as a national symbol, the American flag plays in our national life a role equivalent to the role played by the reigning monarch in British national life.

The American flag is a symbol of our nationhood, our aspirations as a people, our representative form of government, and of the Republic itself for which so many thousands of American men and women have died.

For these reasons and others, I am today offering an amendment to the Constitution to make illegal the defacing, defiling, desecration, or mutilation of the American flag, the living emblem of our nationhood and our way of life.

Like all of my colleagues and the vast majority of the American people, I, too, believe in freedom of speech, but I also believe that, at some point, any freedom can potentially cross the line into license, and the destruction of the American flag, as we have seen it, crosses that line reprehensibly. I hope that my amendment will make clear where that demarcation line rests.

Mr. President, I ask unanimous consent that the text of my joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 179

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. The Congress of the United States and the several States have the power to prohibit and punish the desecrating, mutilating, defacing, defiling, or burning of any flag of the United States.

I ask for the appropriate referral of the amendment.

I yield the floor.

The PRESIDING OFFICER. The amendment proposal will be received and appropriately referred.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

FLAG DESECRATION

Mr. BIDEN. Mr. President, I rise this morning to speak about the flag as well. I think it is particularly appropriate because there are so many young people on the floor of the U.S. Senate this morning, the young pages, many of whom are here for the first time because of the change in the summer session.

I wonder sometimes as I look at them what they think about all that we are about. I welcome them, and I hope they find their stay these next several weeks a positive learning experience. They are fine young people. I will probably embarrass a new young fellow in the group from Delaware, Christopher Buccini, along with his friends who are probably going to wonder a little bit in the next few weeks as we come in trying to get out in time for the recess what this process is about. Hopefully, they will learn something about the process.

To that end, Mr. President, I, like many of my citizens, think there is more to be learned about what the Supreme Court did not do when it found the Texas statute, which was designed to prevent the burning of the flag to make it illegal, unconstitutional.

I was saddened 3 weeks ago by the Supreme Court's decision on the so-called flag-burning case.

Let me begin by suggesting that I take no back seat to any man or woman who has served in this body for at least the last 17 years that I have been here when it comes to being a defender of the Bill of Rights, and particularly the first amendment. As a matter of fact, on the first amendment I have been a minority of sometimes as few as four, many times as few as 10, in voting against what I believe to be infringements upon the first amendment, legislative infringements such as the Agents Identification Act. I opposed part of the Criminal Code, so-called S. 1 that would have criminalized the disclosure of some Government secrets. I pressed the FBI

to investigate CISPES. I opposed the school prayer amendment because of the way it was written, and other Bill of Rights issues. I fought to protect the fourth amendment with regard to the exclusionary rule, protected the fifth amendment rights of aliens with respect to extradition under the immigration reform, defended the sixth amendment right to speedy trial and preserve the presumption of innocence under the Bail Reform Act of 1984, all of which as the President will recall were very unpopular positions in this body, and I suspect unpopular positions with the body politic at large but I believed all of which would have infringed upon the most sacred of our writings, if you will, as a nation—the Bill of Rights, and particularly the first amendment.

But no amendment to the so-called Bill of Rights is absolute. There are exceptions to every single amendment.

Let me just focus on the first amendment which is of great concern to some of my, hopefully, all of my colleagues. There are exceptions that have been recognized in the law to the first amendment freedom of speech. It is not absolute. For example, you are not allowed to defame someone's character in the name of free speech. Obscenity is not permitted in the name of free speech. And if you infringe upon one's copyright or creative works, you cannot do so and say I was just exercising my right to freedom of speech under the first amendment. There are exceptions, and there are others which I will not take time to elaborate on now.

So I ask the question: Why should we not recognize an exception for national unity and pride? Let me make a point here so I am going to be a little bit legalistic in the short time that I have, but I will elaborate on this written testimony which I will ask to be submitted at the conclusion of my statement.

Let me read here. The thing that disturbed me most about the Supreme Court decision was not how they could arrive at the conclusion that it was unconstitutional based upon the way the Texas statute was drawn. Reasonable men could reach that conclusion. Obviously they split 5 to 4. So reasonable men and women were closely divided on that issue. I do not in any way question the patriotism of any one of the judges no matter how they voted.

But I was a little shocked when you read the majority decision, to read such language with regard to the flag as the Court saying that: "No separate judicial category exists for protecting the American flag alone." I was shocked to hear the Court say that it did not know "how to decide if—" if "—the flag was a symbol that was 'sufficiently special to warrant unique status in our country.'"

Regardless of how they came about the decision, regardless of whether it was 5-4, 9-0, or 5-4 the other way, I was dumbfounded to read in the majority opinion that they could not determine whether or not the flag was "* * * sufficiently special to warrant unique status in our country." It did not say "* * * in our Constitution."

The reason that is so important, I say to my good friend, Senator COHEN, who is the major cosponsor of the bill I am about to put in, and to the President who is presiding, the distinguished Senator from the State of Washington, is that in order to have a first amendment exception there has to be a compelling State or compelling governmental interest. And there is a compelling governmental interest if the court can find that the flag is "sufficiently special" and has a "unique status" to warrant protection.

Let me speak to two points in the short amount of time I have left. One, there is in fact a special requirement for unity and pride embodied in that flag in this country unlike other countries.

The reason I say that, and it is often pointed out to me by my colleagues and the press that France does not have a statute to protect its flag, the Union Jack in Great Britain does not have special status in terms of how it is protected, and I respond in the following way. You do not define a French person or an Englishman by what they believe, or what form of government they subscribe to. You define them based on their ethnicity. You can determine who is French, who is British, by their ethnicity. How do you define an American? Do you define Americans based on their color, on their religious beliefs, or on their parental and grandparental lineage? We are the most unique democracy in the history of mankind because we are the most heterogenous nation in the history of mankind. And we have remained strong, vibrant, and vital in spite of that great diversity.

These young people are taught in school as we were that our strength flows from our diversity. That is true ultimately. But initially, our diversity pushes us apart. It does not bring us together. The fact that we are black and white does not generate confidence. It generates fear initially.

The fact that we are Christian and Jew does not send us running into one another's embrace to herald our differences. Mankind fears that which is different, and we are very different, except in one very important regard. That is that we are, as a Nation, more or less united on the means by which we can realize our dreams and the rules and regulations which will guide us in our attempt to fulfill our dreams—the Constitution—a covenant, if you will, embodied in that flag, to the President's right. That is the national symbol of unity, and we need unity in this country because we are so diverse.

Symbols are important. We would have to be blind to world history to not understand that symbols are important. And I say to my friend, the Presiding Officer, that we have a symbol—unlike the Court's inability to recognize it—that is needed to unite this Nation, this diverse Nation, and the symbol is the flag. That is why, Mr. President, I rise to reintroduce my legislation on flag burning. The original legislation passed the Senate unanimously as an amendment to the child care bill, but since there may be extended debate on that child care bill in the House, I have decided with several of my colleagues to reintroduce the bill, slightly modified, after consultation these past 2 weeks with additional constitutional scholars.

My colleagues in the Senate, both Democrat and Republican, who join me in introducing this bill, believe that we must protect the American flag and the cherished value it embodies.

Mr. President, I ask unanimous consent that I have 5 more minutes to proceed.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the Senator is recognized for 5 additional minutes.

Mr. BIDEN. Mr. President, I am absolutely confident that we can do this, that is protect the flag, by statute. And I now send to the desk such a statute.

The PRESIDING OFFICER. The Senator's proposed statute will be accepted and appropriately referred.

Mr. BIDEN. Mr. President, I send it to the desk on behalf of my distinguished colleague from the State of Delaware as the prime cosponsor, Senator ROTH, along with Senator COHEN, as the two prime cosponsors.

The PRESIDING OFFICER. The Chair will make an unusual request that his name might also be added.

Mr. BIDEN. I am delighted to do that. I ask unanimous consent that the Senator from Washington, [Mr. ADAMS] be added as a cosponsor. I also point out that there are 21 additional cosponsors on both sides of the aisle. In my view, and in the view of several distinguished constitutional scholars with whom I have consulted, the legislation I have offered today can and must be sustained by the Supreme Court.

Mr. President, the Supreme Court emphasized in its decision that the Texas law, which was overruled, was not aimed at protecting the physical integrity of the flag in all circumstances. This is important. It was aimed instead at protecting it against only those acts of physical destruction that would "cause serious offense to

others." I will not take the time, because I do not have the time this morning, to elaborate further, except to say that if in fact the Texas statute had just said you cannot burn the flag, period, it would have been constitutional, in the opinion of most constitutional scholars. But it said that if you burn this flag and as a consequence cause serious offense to my friend from Illinois, then you have violated the Texas statute. If I burn the flag and the Senator from Illinois were not offended, or none of the pages were offended, and nobody in this revered gallery was offended, then it would not be an offense. The gravamen of the offense must be that it caused offense to others.

Now, the court concluded, because that is the basis upon which one is found guilty or not guilty, that guilt depended thus upon "the communicative impact of the action." That is getting kind of fancy here, but that is the phrase, "communicative impact."

If there were no impact by my burning, other than the flag went up in flames, if it did not offend anybody out there, if the defendant could have proved nobody was offended, then he would not be guilty under Texas law, and the court says that. But the court says because it depended on a communicative impact, that as I was trying to offend you when I burned the flag, it falls into the realm of the first amendment, because you cannot outlaw things because they offend other people, by and large, but you can outlaw actions merely because you wish to protect the integrity of the flag, of a specific item.

In contrast, the legislation that we have offered today eliminates references to the communicative impact of the prohibited acts. In other words, prosecution under our bill will not depend on whether the flag is used for communicative or noncommunicative purposes, or whether any particular group of people might be appalled or applaud what is being done.

Mr. President, great care and deliberation have gone into this approach. I have consulted with significant scholars, including Dick Howard, from the University of Virginia Law School; Rex Lee, former Solicitor General under the Reagan administration; Lawrence Tribe, professor of Harvard Law School, just to name a few. I have taken each of their views into account.

Now, Mr. President, under the terms of the unanimous consent agreement entered into last Friday, as chairman of the Judiciary Committee, I will be holding a series of hearings on these important issues, on the constitutional amendment introduced by my friend from Illinois and the Republican leader, the constitutional amendment introduced by Senator BYRD, and this legislation, as well as other constitutional amendments.

We will begin those hearings, the Judiciary Committee, and I will have at least one major hearing prior to our leaving in August. There will be at least one major hearing during the month of August while we are in recess, and we will have at least two major hearings in the month of September and report back to this body on a constitutional amendment, as well as a statute, if one is reported out of committee. If they are not reported out of committee, they are reported back unfavorably, but they will be reported back.

Mr. President, let me conclude by saying, if a constitutional amendment is needed, so be it. But I believe if you can do something by statute without further adding to the Constitution, it is wiser and more reasonable to do so. Mr. President, I think we can make it the law of the land that one cannot burn the flag in the United States of America. I think it is important that that be done. I think it should be done by statute. If it proves that that cannot be done—which I am certain it can—but if it proves it cannot be done, then it is the time to pass a constitutional amendment, if in fact we need one, because a constitutional amendment process would take a long time. This could be passed the day after we report it back. It can be passed by the House and the Senate and on the President's desk by mid-October. A constitutional amendment could take or will take months and could take years.

Mr. President, nearly 4 weeks ago, the U.S. Supreme Court decided a case that—since the time it was handed down—has captured the hearts and minds of nearly all Americans. From the schoolboy in Seattle to the farmer in Dubuque to the dockworker in Wilmington, DE, we've all been talking about the decision by the Supreme Court in what's become known as the flag-burning case. Whether we believe the decision was wrong—as I do—or right, it's touched a nerve among all of us.

Why is that so?

Mr. President, the answer lies deep within us.

We might each express it differently, but the passion we feel when we see Old Glory mournfully draped over a fallen hero's casket, as it goes by in a solemn funeral procession; or joyously flown over our town squares on the Fourth of July holiday that we just celebrated; whether the flag flies defiantly on the shoulders of the marines who hoisted it at Iwo Jima on an unknown peak called Mount Suribachi, or simply flutters in a warm breeze at the ballpark on a summer's evening, when we stand with our children and salute our Nation, the emotions that the flag stirs in us are really quite extraordinary.

The flag is truly the Nation's most revered and profound symbol, representing all that this country stands for. After all, the "Stars and Bars"—first flown on January 2, 1776—are older than the Declaration of Independence—older than America itself.

So, Mr. President, I was saddened by the Court's decision, and I was shocked to hear the Court say that it did not know "how to decide" if the flag was a symbol that was "sufficiently special to warrant * * * unique status" in our country.

With all due respect for the Supreme Court, I must disagree.

Mr. President, I take a backseat to no man or woman who serves in the U.S. Senate when it comes to being a defender of the Bill of Rights and particularly the first amendment. I defended first amendment rights in connection with the Agents Identification Act; I defended first amendment rights in opposing parts of S. 1, the Criminal Code reform legislation, that would have criminalized the disclosure of certain Government secrets; and I defended first amendment rights in pressing the FBI to investigate the Cispes matter. When it comes to the Bill of Rights generally, I have fought to protect the fifth amendment rights of aliens with respect to extradition under the Immigration Reform Act; I have fought to defend the sixth amendment right to a speedy trial; and I have fought to preserve the presumption of innocence under the Bail Reform Act of 1984.

The first amendment's protection for freedom of speech is not, however, absolute, as the Supreme Court has recognized on numerous occasions. Several exceptions have been recognized—for example, the first amendment does not provide protection for defamatory statements; for obscene materials, as the Supreme Court reaffirmed just a few weeks ago; and for artistic and other creative works protected by our copyright laws. So why shouldn't we recognize an exception for national unity and pride—in which there certainly is a compelling governmental interest.

We who inhabit this great land form the most unique and heterogenous nation on Earth. We were told when we were children that we were a melting pot—and that this is what made us strong. But that is not true—people fear diversity. The fact that we are black and white does not generate love—but fear. The fact that we are Christian and Jew does not send us running into one another's embrace heralding our difference. Our diversity initially pushes us apart—not together.

What holds us together as a nation is not our ethnicity, but one overwhelming notion—the notion that we have all, by and large, committed to

realize our dreams and resolve our difference according to a set of guidelines that are listed in the Constitution—a covenant, if you will—the single most obvious, clear and unquestioned symbol of which is the American flag.

That flag symbolizes our national unity and our sense of community—and we have a compelling interest in its protection. Our sense of community is critically important if we are to solve the problems confronting this ever-changing Nation.

That is why, Mr. President, just 2 days after the Supreme Court handed down its flag decision, I stood on this floor and introduced legislation to amend the Federal flag burning law that would have allowed the Federal Government to continue to make flag burning and other acts of flag destruction a crime while remaining consistent with the Supreme Court's decision in Texas against Johnson. That legislation—which had bipartisan support—passed the Senate unanimously as an amendment to the child care bill.

I rise today to reintroduce that legislation. As we know, there may be extended debate in the House on the child care bill. And so I have decided—along with many of my colleagues, Democrats and Republicans—to once again offer my legislation—slightly modified after consultation these past several weeks with additional constitutional scholars.

My good friend from the great State of Delaware, Senator ROTH, and my distinguished colleague from Maine, Senator COHEN, join me as principal sponsors of this legislation. I thank them for their support, and I look forward to working with them on this important issue.

As a freestanding bill, the legislation we've introduced today can be enacted into law quickly—so that without any further delay, we can ensure that flag burning and other similar acts of destruction of the flag are against the law.

Mr. President, there are those who would like to see this entire issue swallowed up by the roar of partisan politics. They would like to make the flag—which historically has been aligned not with one party but with all parties, not with some people but with all people—an issue for the next election and for elections in years to come. The would like to turn what has been the eternal unifier of this diverse land into the great divider. They would like to split the values that we all hold—patriotism, love of country, pride in our land—along party lines, so that the flag becomes the property of some, but not all, Americans.

Mr. President, we need not and we should not engage in such partisan debate.

There is a way of remedying the Court's decision in Texas against Johnson—and remedying it easily, quickly and constitutionally. We can protect the American flag—as we must—and the cherished values that the flag embodies. We can do this by a statute that achieves the objectives desired by all of us. We can take the statutory route if—as a recent New York Times editorial said—we "want a result instead of an issue."

Mr. President, I rise today in the hope that we can achieve that result. I send to the desk a bill that would amend the Federal law on flag burning to read as follows:

> Whoever knowingly mutilates, defaces, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined not more than $1,000 or imprisoned for not more than 1 year, or both.

In my view and in the view of the several constitutional scholars I have consulted, this law would allow the Government to continue to make flag burning and other acts of destruction of the flag a crime while remaining consistent with the majority opinion in Texas against Johnson.

Mr. President, the Texas law at issue in the Supreme Court case made it a crime:

> To defile, damage or otherwise physically mistreat (the American Flag) in a way that the actor knows—and here's the key language—will seriously offend one or more persons likely to observe or discover his action.

As Justice Brennan emphasized, the Texas law was thus not aimed at protecting the physical integrity of the flag in all circumstances, but instead was aimed at protecting it against only those acts of physical destruction that "would cause serious offense to others." And as Justice Brennan concluded, whether the Texas law was violated "thus depended on the communicative impact" of the conduct.

In first amendment terms, therefore, the Texas statute was not neutral. Rather, it applied only to those circumstances in which there was "serious offense to others," and as a result it was subject to the most exacting scrutiny under the first amendment.

Thus, Justice Brennan drew a critical distinction between the kinds of flag statutes that would be constitutional—those that ban destruction of the flag in all circumstances, regardless of the point of view being expressed—and those that would be unconstitutional—those, like the Texas statute, in which the application of the law is in fact inextricably linked to the expression of a particular point of view.

The legislation I've offered satisfies the test outlined by the Court and falls into the category of flag statutes that are constitutional. I've eliminated the phrase "casts contempt" and the word "publicly," and I've made sure that none of the key operative words are imbued with any element of communication. Thus, the bill eliminates any reference to the communicative impact of the prohibited acts on others.

What we've done, Mr. President, is draft a bill that is "content netural"—so that operation of the statute does not depend on whether the flag is used for communicative or noncommunicative purposes, or upon whether any particular group of people might applaud or oppose what the person is doing.

In its recent pronouncements of the subject, the Supreme Court has said that a "content neutral" regulation is one that is "justified without reference to the content of regulated speech"—which means that the Government cannot grant rights and privileges to those whose views it finds acceptable, and deny them to those whose views it finds unacceptable. My proposed legislation meets that test.

It's important in examining this issue, I might add, to understand that the Government has a legitimate interest in protecting the American flag. The Supreme Court has made that crystal clear. What's important is that when the Government decides to protect that interest, it must do so in a "content neutral" manner—which is precisely what my bill does.

Some might question whether the Government can properly protect against private acts of destruction. After all, some might say, if I buy a flag, why can't I do anything I want with it? I would argue that this is a red herring. As one of the professors with whom I consulted—Dick Howard of the University of Virginia Law School—pointed out, there are certain things of such intrinsic value that the Government has a substantial interest in protecting them, even when privately owned.

Take historic preservation laws, for example. If I own a home that's been designated as a historic landmark, I have to check with the Government before I can alter its physical structure. Even though I own the home and even though it's my own property. I'm limited in what I can do with it. The same rationale applies to my bill and its limitation on what people can do to the flag, even a flag they own.

Mr. President, serious and extensive study has gone into my approach, and each word has been chosen with great care and deliberation. I've consulted with constitutional scholars and Supreme Court practitioners whose views are diverse and cross the ideological spectrum—Dick Howard, as I've mentioned, from the University of Virginia Law School; Rex Lee, former Solicitor General under President Reagan, and currently president of Brigham Young University; Henry Monaghan, from Columbia Law School; Laurence Tribe, from Harvard Law School; William

Coleman, former Secretary of Transportation under President Ford; Walter Dellinger, from Duke Law School—to name just a few. I've taken each of their views into account in coming up with my legislation.

As we debate the merits of my statute and any other approaches that might be offered, let us not lose sight of one fact. This is not a debate about who is a "better American" or about who believes in the flag and the cherished values it embodies more than someone else. I can state with the utmost confidence that we all believe in the flag and those cherished values.

Mr. President, under the terms of the unanimous-consent agreement entered into last Friday, the Judiciary Committee will be holding a series of hearings on this important issue. These hearings will be thorough and fair, and will provide an exhaustive examination of both the legislation I've introduced today as well as the joint resolution proposing a constitutional amendment. I am confident that we will have a complete record on which to act.

I urge my colleagues in Congress and the President to waste no time in enacting my flag-protection legislation—to make it the law of the land—and to join me in giving life once more to the American's creed proposed more than half a century ago by William Tyler Page. It goes like this:

I believe in the United States of America as a government of the people, by the people, for the people * * * established upon those principles of freedom, equality, justice and humanity for which American patriots sacrificed their lives and fortunes. I therefore believe it is my duty to my country to obey its laws, to respect the flag, and to defend it against all enemies.

I urge my colleagues to join me in moving swiftly, surely and safely to restore the dignity and the inviolability of the flag we have respected all of our lives.

Mr. President, I thank my colleagues for their indulgence in giving me an additional amount of time.

I introduced the bill on behalf of Senators ROTH and COHEN and myself. I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biden-Roth-Cohen Flag Protection Act of 1989".

SEC. 2. AMENDMENT TO TITLE 18.

Subsection (a) of section 700 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly mutilates, defaces, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be fined not more than $1,000 or imprisoned for not more than one year, or both.".

Mr. DIXON. Will my friend yield for a moment?

Mr. BIDEN. Yes.

Mr. DIXON. I wonder if my colleague would accommodate me by showing me as a cosponsor as well.

Mr. BIDEN. I ask unanimous consent that the Senator from Illinois be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I also ask unanimous consent that the distinguished Senator from Nebraska [Mr. EXON] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Mr. COHEN. Mr. President, I commend the two Senators from Delaware for introducing this legislation.

I know there may be a tendency to try and characterize the offense that I think virtually everyone in this Chamber feels toward the individual who burned and desecrated the American flag. But I would hope that this debate would not turn into an issue of who is liberal or who is conservative, whether one is Republican or one is Democrat, and whether this statutory approach is weak or passive or reactive or not strong enough to overturn the Supreme Court decision.

I frankly think the Supreme Court decision was wrong. I think there was a basis for distinguishing this particular act, and it was an act as opposed to speech in my judgment.

As Senator BIDEN has pointed out, the first amendment is not absolute. We do not have absolute freedom to say whatever we want to say. We cannot defame individuals. We cannot stand in a public square and yell obscenities.

As Justice Holmes once reminded us many years ago, a person cannot falsely shout "fire" in a crowded theater.

There are recognized limitations not only to speech but also to action. There are a number of acts which are protected under the first amendment. We cannot desecrate public monuments. We would not, for example, allow the desecration of the Washington Monument. Someone could not spray paint on that monument, or place a swastika or other offensive symbols on it.

So there are no absolute guarantees under the Constitution.

The conduct itself—burning the American flag—offensive as it is, in my judgment was not protected by the first amendment, but the Supreme Court ruled on a 5-4 decision that it was.

Mr. President, Senator BIDEN pointed out the need to reaffirm our comitment to important symbols. I think it was Napoleon who said he could persuade men to let their veins for a piece of bunting. That is how important symbols are in human existence.

I do not know of any more important symbol than the American flag. It is something that is deeply ingrained in our experience. We certainly fly it proudly on patriotic days. All of us who have been out on the Fourth of July break and participated in the various parades around our respective States know the deep sense of commitment there is to this country and what that flag represents.

We lower it to half mast to symbolize our grief over fallen collegues. Our veterans' caskets are shrouded in it. We are now celebrating the 20th anniversary of man's landing on the Moon. Planting the flag on the surface of the Moon was the first act of our *Apollo* astronauts. It is perhaps the most unique symbol in our entire country.

Going back to the days long since passed in high school and college, I can remember there was no greater thrill than standing on a basketball court or baseball diamond listening to the national anthem being played and seeing the flag being saluted.

So it has a special place. I, too, was stunned to read the majority's opinion about the need to search around and see if we could find some national consensus about the importance of that symbol. It was an astonishing statement, in my judgment.

Mr. President, it is not simply a question of whether we must pass a statute or a constitutional amendment. It may be necessary to do both.

In this instance, Senator BIDEN has offered a statutory approach that can in fact correct the situation by amending the law to conform to the Supreme Court decision. I think that it is a positive approach. I think it is a wise approach. I hope it is possible to do so. If it is not, I certainly would support a constitutional amendment. In fact, I am a cosponsor of the President's proposal to amend the Constitution. But it may not be necessary that we go through that entire process, and I do not think anyone should stand on this floor and attack the motivations of any individual Member because he is not a cosponsor of the constitutional amendment.

I think this legislation is a way in which we can achieve our objective of trying to protect the integrity and the symbolism of the American flag.

I recall being on the floor when the Senator from Kansas took the floor, and I believe the Senator from Illinois did as well, to discuss an event that took place in Chicago, in which we had a so-called artist who laid an American flag on the floor and required patrons to that art exhibit to step across and violate that flag in order to sign their names to the registry.

All of us took the floor and challenged that particular act. It was not

an act of art. It was a desecration of the American flag. We spoke out very loudly. Senator DOLE was the first, and indeed his own background makes him the natural leader for those wishing to speak and criticize the desecration of the American flag.

I hope, Mr. President, that we can keep this issue in perspective. There are going to be Republicans supporting Senator BIDEN's measure; there are going to be Republicans certainly supporting Senator DOLE's measures and Senator THURMOND's. But if we have an opportunity to amend the Federal statute in such a way that we can protect the integrity and the honor of the American flag, I think we should do so.

Mr. President, I am proud to join Senators BIDEN and ROTH today in sponsoring legislation to remedy the U.S. Supreme Court's recent decision in Texas versus Johnson, upholding the burning of the American flag as a political expression protected by the first amendment. The legislation amends the Federal flag desecration statute to meet constitutional objections and it will, therefore, allow the Federal Government to continue to make flag desecration a crime while remaining consistent with the Court's decision in Johnson.

The Supreme Court's decision touched off an outcry of opposition in Congress and throughout the country. Old Glory evokes deep emotions in the hearts of millions of men and women in this country, many of whom have made sacrifices in the defense of the ideas of liberty and freedom that the flag represents. It is unique, a special emblem of our principles and ideals, and of our Nation's struggle for freedom. Americans stand respectfully when it rises, fly it from their front porches on patriotic holidays, lower it to half mast in times of tragedy and shroud their veterans' caskets in it. It is our most revered national symbol.

As Justice Stevens noted in his dissent in the Johnson case:

> A country's flag is a symbol of more than "nationhood and national unity." It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. The value of the flag as a symbol cannot be measured.

I respect the Supreme Court and the role it plays in our system of government. But I cannot agree with a decision which permits the defacement of the symbol of our country's most cherished values and ideals.

The Court held that Mr. Johnson's action was expressive conduct protected by the first amendment. I share the Court's reverence for the first amendment and fully agree with the court that if there is a fundamental principle underlying the first amendment, it is that the Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.

However, I believe that it is possible to honor the first amendment's protection for freedom of speech while recognizing that the flag is a unique national symbol that warrants unique protection. Preventing the physical desecration of this unique symbol does not in any manner inhibit the constitutional right to criticize the United States, its policies, or the principles upon which it was founded.

The Supreme Court struck down the Texas statute because it found that the law was designed to protect the flag only against abuse that would be offensive to others, rather than protecting the flag from physical destruction in all circumstances. It was, therefore, in the Court's view Mr. Johnson's expression of an idea—contempt for the flag and what it represents, and his desire to convey that message to those who witnessed the flag burning—that was targeted for punishment.

While the contempt and hatred Mr. Johnson expressed for the United States by his words and his actions are offensive to me and to the vast majority of Americans, I do not dispute his right to express or advocate such views. It is not his views but rather his action in physically violating the American flag that is in question here.

The legislation we are introducing today removes from the Federal flag statute those words that could be interpreted as attempting to suppress certain types of expression or speech. By amending the law so that it is "content neutral," it will prohibit the desecration of the flag in all circumstances without reference to the message or point of view being conveyed.

The Senate has passed a resolution expressing its profound disappointment that the Texas statute prohibiting the desecration of the flag was found to be unconstitutional, and expressing its continuing commitment to preserving the honor and integrity of the flag as a symbol of our Nation and its aspirations and ideals. We can demonstrate that commitment and, at the same time, remedy the Court's decision in Johnson by enacting the legislation being introduced today. By prohibiting the desecration of the American flag regardless of any political expression the individual may want to convey by his action, the legislation will achieve the result we all seek, and it will do so quickly and constitutionally.

Finally, I applaud Senator BIDEN for his work and leadership on this issue. And, I join him in urging our colleagues to work with us in supporting the passage of this legislation.

Mr. DIXON. Mr. President, I rise today with my distinguished colleagues from both sides of the aisle, to introduce an amendment to the Constitution of the United States. The amendment will read as follows:

> The Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States.

Amending the Constitution is a serious matter, Mr. President. I do not undertake this endeavor hastily nor do I take it lightly. We must proceed carefully, but always keep in focus our objective. The American flag is a sacred symbol of this Nation's unprecedented breadth of freedoms, and, as such, the flag should never be desecrated.

Americans, since the birth of this great Nation, have fought and died to forward the ideals embodied in the American flag. They strongly believed in these ideals. They were willing to put their own lives on the line in defense of democracy. Citizens everywhere find the burning or desecration of the flag offensive.

Recently, other Senators and I have been flooded with letters concerning the flag amendment. A large majority of our citizens have expressed their outrage with the Supreme Court decision and have expressed their desire for a redress of this issue.

A July 3, 1989, Gallup poll in Newsweek magazine stated that over 71 percent—nearly three-fourths of the American people—support an amendment empowering Congress and the States to prohibit the physical desecration of the flag.

The American flag is woven into every facet of this Nation's being. Supreme Court Chief Justice William Rehnquist said in his dissent in Texas versus Johnson that the American flag,

> • • • has come to be the visible symbol embodying our Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another "idea" or "point of view" competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have.

Justice Stevens, who incidentally, happens to be an Illinoian, said in his dissent:

> Had he chosen to spray paint—or perhaps convey with a motion picture projector—his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the Government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset.

In a 1969 Supreme Court case, Street versus New York, former Chief Justice Earl Warren said:

> I believe that the States and Federal Government do have the power to protect the flag from acts of desecration and disgrace.• • • [I]t is difficult for me to imagine that, had the Court faced this issue, it would have concluded otherwise.

I agree with former Chief Justice Warren's analysis. Warren realized the true value of the flag, and sought to protect it.

Former Justice Hugo Black concurred with Warren and added:

> It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

I agree with former Justice Black's statement.

As I said at the time of the Supreme Court decision in Texas versus Johnson, I believe one can disagree vigorously with the policies of the United States, and yet need not desecrate the flag to make one's point. The courts have placed reasonable limitations on some freedoms in the past, without significant dilution of an individual's freedoms. This amendment, I believe, does not encroach upon or denigrate the freedoms expressed under the first amendment.

The amendment we are introducing prevents the desecration of the flag through simple, clear langauge. It allows Congress and the States to prevent the physical desecration of the flag of the United States. The language is straightforward and correct.

I have thought a great deal about this matter, Mr. President, and after careful review of the decision I believe the passage of a constitutional amendment to prevent the physical desecration of the flag protects a unique national asset while not encroaching on the rights of free speech.

I urge my colleagues to join me in support of this amendment.

May I simply say this in conclusion. I am delighted to cosponsor the legislation introduced by my friend from Delaware, the distinguished chairman of the Judiciary Committee. I will vote for that bill. I hope it becomes law quickly. And I hope that shortly it is tested in the courts.

Should the Supreme Court of the United States ultimately say that we can effectively, by statute and by legislation, address this problem, that would be fine with this Senator.

Then perhaps the question of pursuing the question of a constitutional amendment would become moot. It takes a long time to adopt a constitutional amendment. It requires a two-thirds vote in both Houses and it requires the affirmation and support of 38 States. So that takes some time. But I say that there should be a guarantee somehow under the laws of this great Nation that we preserve the integrity of the flag.

If we cannot do it by a law, if we cannot persuade the Supreme Court to reverse its position, then I say it is necessary to do it ultimately by constitutional amendment.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, in America, a county borne proud by the traditions and nationalities of countless immigrants from countries around the world, our flag serves as an emblem of unity. It serves as a symbol of courage and virtue and truth that binds us all together as Americans. In a land made free by the blood, sweat, and tears of its patriots, the flag serves as the standard of liberty—the still, quiet, inspiring banner our heroes followed so boldly into war. To our youth it represents hope, and to our young families security. To our veterans it is a reminder of ideals for which they were willing to lay down their lives, and to our seniors it is the embodiment of principles for which they have labored so long.

I, too, remember returning from war, and seeing the red, white, and blue waving crisply in the wind above port, and I can't tell you the emotion I felt as I realized that I was, indeed, home. Not only did I serve beneath its shadow on foreign soil, but I was home to reap the many blessings it represents—the blessing of being an American.

Because the flag speaks so powerfully to the spirit of its people, America's detractors know that by defacing it, ripping it, burning it, or trampling upon it, they are violating not only the fabric of red, white, and blue, but everything for which it stands—a nation of homes and families under God, making life better for our children so our children, in turn, can do the same for generations to come. By violating our flag, these detractors know they are violating our principles of freedom and unity—principles of our very foundation.

I believe this is what Daniel Webster meant when he stood here more than 150 years ago, and said:

> Let (our) last feeble and lingering glance * * * behold the gorgeous ensign of the Republic, now known and honored throughout the Earth, still full and high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, nor a single star obscured, bearing for its motto, no such miserable interrogatory as "What is all this worth." * * * But everywhere (let it) spread all over the characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in very wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and Union, now and for ever, one and inseparable.

Mr. President, when America's detractors violate our flag—whether in the alleys of Iran or on the streets of Dallas—they are insulting all who believe so strongly in the values symbolized by the flag as well as assaulting those very values.

Consequently, I am joining with my distinguished colleague, Senator BIDEN, in sponsoring this proposal to protect the flag, and I can say with safe assurance that I am doing so with the support of folks back home. Since the Supreme Court decision my office has received many letters, notes, even poems calling for protection of the flag.

For example, one man from Lewes wrote to tell me: "I served overseas in the U.S. Navy in World War II, and when I saw Old Glory flying on ships, or on the islands, I had a sense of security and freedom. Please keep it flying high."

A lady from Dover wrote:

> While stationed in Spain with the Air Force, we were not allowed to have an American flag anywhere. Finally after much "red tape," one small flag was allowed to be carried in a July 4th parade.
>
> What emotion that touched off in all of us!
>
> You'll never know how much it means until you aren't allowed to fly it!!
>
> Before every movie at the base theater they played the Star Spangled Banner and at the end they would show the flag. Every time, most of us would get tears in our eyes for what that flag symbolizes. Thank you for your efforts to protect our flag. We support you in this endeavor with our prayers! We know, first hand, what it means to have the liberty to fly our great flag taken away! Please keep it flying!

Another sweet patriot from Milford wrote:

> I never see Old Glory raised that I do not shed a tear thinking of my Dad, five brothers, two nephews, four cousins and one son who fought to protect her. * * * I fly her every day the weather permits.

Thousands of such responses have been pouring into my office, many of them suggesting what the penalties should be for those who desecrate the flag. One that especially caught my attention came from a man in Millville, who wrote:

> As a Pacific veteran of World War II, I have always felt those who desecrated the flag should be trolled for bluefish!

I was also surprised by the number of immigrants—naturalized Americans—who are writing to support legislation to protect the flag. As one said, "It has come to be the symbol of our citizenship, and it is very precious. Burning it as a political protest is terrible."

I appreciate all these men and women, boys and girls, who are writing and calling. It demonstrates to me that the silent majority will not sit idly by and allow their country to be run by activists. It demonstrates to me that our folks back home are getting just about sick and tired of watching their important—almost sacred—symbols, beliefs, and institutions run into the ground by a radical agenda. But three of the letters I received, I will never forget.

The first is from Barbara Redden, from Newark, DE, who sent one of many poems I've received. Hers was an unpublished original—a poem for children, entitled "Betsy's Helper." I ask unanimous consent that the poem in

its entirety be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

(See exhibit 1.)

And I would also like to quote a few lines, a dialog between Betsy Ross and her friend and helper, a pet mouse:

It reads:

They wanted her to make a flag of red, white, and blue.
And they said it should have stripes and stars on it, too.
She said she'd love to make a flag to fly over their land,
And would be honored to make it with her very own hand.
George Washington, said:
The flag needed to be done for a big parade that day.
The country needs to pull together, and a flag may be the way.
He felt that an American flag flying over us, one and all,
Would give us something to look up to, and we'd be proud, and we'd never let it fall.

Mr. President, the second letter I will never forget comes from a veteran of Vietnam who described how a buddy was wounded for doing exactly what Mrs. Redden described, never letting the flag fall. During the course of a battle, he took the flag before it was allowed to fall into the dirt, and in the course was hit by enemy fire.

And the third, Mr. President, comes from a proud American in Seaford. Who said simply: "I was on Iwo Jima. * * * Need I say more."

No, Mr. President. No, he need not say more, and neither do I. Without condition, I support whatever action it takes to protect our flag.

EXHIBIT 1

BETSY'S HELPER

(By Barbara Redden)

There once was a little mouse,
Who lived in Betsy Ross's house.
Right in the middle of the city.
You've never heard of him? My what a pity!!!
That little mouse stayed mostly in the wall.
Although, sometimes for fun, he'd run up and down the hall.
Betsy was a Quaker, and came from a large family.
She had a sewing shop, and she was as neat as she could be.
If threads and material dropped on the floor,
She'd sweep them up, and then sew some more.
One night, Betsy was about ready for bed,
When she quickly turned her head,
And she spied that little gray mouse,
Sticking his head out of the door of his house.
Betsy liked him, and said, "Don't run away."
So he came back and started to play.
She gave him some crumbs on her cleaned up floor.
The next night he came back, and she gave him some more.
They became very good friends, what do you think of this?
The little gray mouse, and the Quaker Miss.
Some men came to see Betsy on business one day.
It was her uncle and George Washington the mouse heard her say.
They wanted her to make a flag of red, white, and blue.
And they said it should have stripes and stars on it too.
She said she'd love to make a flag to fly over their land,
And would be honored to make it with her very own hand.
The sat and talked, and drank some tea,
And told her how the flag should be.
They'd be back to get it one week from that date.
Betsy would have to hurry so she would not be late.
The cloth she used was bunting, and it was good and strong.
That is why she used it, because it would last so very long.
She worked hard every day to get that big job done.
She marked off on her calendar the days one by one.
Betsy made tiny stitches from sun up to sun down.
She worked very hard on the flag, but never wore a frown.
Even though her days were rushed, she remembered her little friend.
She still gave him crumbs and chatted while she hemmed.
In the conversation, she told the little mouse,
That early in the morning, General Washington would stop by her house.
The flag needed to be done for a big parade that day.
The country needs to pull together, and a flag may be the way.
He felt that an American flag flying over us one and all,
Would give us something to look up to, and we'd be proud, and we'd never let it fall.
Suddenly a bad thing happened. Betsy's scissors broke.
There was no way to repair them, and that was no joke.
Poor Betsy, to think her work was almost done,
And her scissors broke, that wasn't any fun.
The little mouse peeked from his hole in the wall.
Betsy looked sad, and down her cheek a tear did fall.
There were to be thirteen stars, one for each colony.
Ten were cut, and sewn, but what about the last three?
Her neighbors couldn't help her. They had all gone to bed.
There was nothing left to do, but lay down her weary head.
Soon the house was quite—just as quiet as could be.
The mouse came out to look, to see what he could see.
He said, "I wish I could do something to help my dear friend.
I'd be ever so happy if I had scissors that I could lend."
The little mouse sat and thought for a minute or two.
Then he said to himself, "there is one thing I could do."
Betsy had drawn stars on the cloth and placed in on the table.
The mouse started nibbling around the stars as fast as he was able.
At last the job was done, and he heaved a great big sigh.
Betsy could sew the stars on quickly, and the flag would be ready to fly.
When Betsy saw the stripes were cut, she jumped up and down with glee.
Who was here in the night and cut those stars for me?
Then she spied her friend the mouse.
He grinned at her from the door of his house.
Then with his eye, he gave her a wink.
"Oh," she said, "you're good at making stars I think."
She patted him on his head, and put some crumbs on the floor.
Betsy sewed the stars on quickly, then General Washington knocked at the door.
He saw the flag and loved it as all Americans do.
He always carried it proudly, and that's what you should do too.
Of course, all of this took place over two hundred years ago.
Since then our country has had lots of time to grow.
We now have a flag with fifty stars on a field of blue,
One for every state—the one you live in too.

Mr. LEAHY. Mr. President, all of us agree that burning the American flag is a despicable act—hostile to our shared values and sensibilities.

It should be outlawed.

And it will be outlawed.

Mr. President, I rise today not to address the question of flag burning. There is really no dispute about that issue. We Americans all oppose flag burning. But I rise today to protect the integrity of the U.S. Constitution.

Our forefathers fashioned a unique, remarkable charter—one deeply rooted in the past—yet dynamic and flexible enough to lead the way today and tomorrow. That charter—the Constitution of the United States and the Bill of Rights—is unparalleled by any in the history of the world. "We the People" benefit from it every day. It stands as a beacon—a shining monument to the principles of individual liberty.

The first amendment, perhaps more than any other provision of the Constitution, reflects the essence of American democracy. It provides:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

It protects the right and freedom of every American to think, to speak, and to write, to defend and to offend beliefs as we please without the threat of government censorship or reprisal. It ensures the rights of the minority—even a minority of one—in a political system run by the majority.

Every American holds dear the freedom guaranteed by the first amendment. But it has a special meaning for me. As the son of a Vermont printer, a publisher of a weekly newspaper, I grew up in a family which venerated

freedom of speech above almost all others.

I learned that freedom of expression is the first amendment to the Constitution for a very profound reason. If we are not free to express our thoughts, the inalienable right to govern ourselves is meaningless.

Freedom of speech and freedom of religion guarantee diversity in America. And that diversity guarantees the democracy all Americans hold dear.

Our appreciation and wonder at the extraordinary freedom we enjoy was renewed just last month as we witnessed the brutal massacre of Chinese students in Tiananmen Square. We paused, hoping that democracy might blossom there as it did here in our country more than 200 years ago. We saw all too clearly, though, that if democracy and freedom of expression lack the force and legitimacy of law, they are nothing more than fleeting, ephemeral notions.

Today, there is a lot of talk about amending the blueprint of our democracy. Many people, understandably upset with the Supreme Court's decision in the flag-burning case, believe that it is time to alter the Constitution, to change course even ever so slightly.

They are wrong.

Our founders fought a bloody war of independence to guarantee fundamental liberties to the American people. For 200 years, these liberties have shielded individuals from the excesses of government. They are the bedrock of our democracy.

Other generations faced crises that precipitated cries for changes in the Constitution. Through each challenge to our core principles and values, our basic charter of rights has survived unscathed. Outrage and passion were tempered. Wiser heads prevailed.

Is it not the President's responsibility to support the law of the land? The Supreme Court has no troops. Its edicts are followed by moral suasion.

What if President Eisenhower, for example, had asked for a constitutional amendment to reverse Brown versus Board of Education instead of pledging the support of the executive branch for the Court's decision?

In retrospect, we have to be grateful that the Senate and the President met their responsibility to protect the Constitution, to deliberate, to take the long view.

Well, Mr. President, it is time the Senate of the United States and the President do that again.

We must preserve that tradition as we debate the protection of our flag.

The flag is our most beloved symbol. And we are a nation grounded in symbols as well as in words. The flag unifies us as a nation and defines us as a people. One can burn a flag, but no one can ever destroy the flag as long as its spirit and purpose endure in the hearts of all Americans.

The only way to truly dishonor the flag is to turn away from the principles it stands for, to betray the values it represents. We do just that when we talk about amending the Constitution unnecessarily.

With the exception of the Bill of Rights, our Constitution has been amended only 16 times. The amendments to the charter range from prohibiting slavery to guaranteeing women the right to vote.

The fundamental principle underlying our democracy is that the government's power over the people must be limited. Our democracy "of and by the people" cherishes individual liberty above all else. Increasing the government's power at the expense of individual freedom—because of the outrageous acts of one publicity seeking miscreant in Texas—runs contrary to our most fundamental principles.

It sets a dangerous precedent.

It defies the essence of our basic charter of individual freedom.

And it is avoidable. We can and we should address this reprehensible conduct easily and immediately by changing the Federal statute on flag desecration.

But amending our Constitution, that, Mr. President, is a grave undertaking—one we should consider only to redress the most profound grievances. In this instance, it is not necessary. We have the power and authority to prohibit desecration of the flag by statute.

There is no reason to tinker with the very structure of our Government. The chairman of the Judiciary Committee has a proposal that many constitutional scholars agree will not offend free speech values. It is really a more sound, reasoned approach than any proposed amendment to the Constitution.

As Senators we have a special responsibility to safeguard the Constitution. Each of us has sworn to "support and defend," not only the words, but the very essence of the document.

It is true that we have a responsibility to represent the dissatisfaction of people all over the country who are outraged at the thought of burning our national symbol. I am a Senator from Vermont and in that capacity I express my own and I believe the abhorrence of all Vermonters at despicable acts like flag burning.

Each of us is here in this great deliberative body, not only as a representative, but as a leader. And in that capacity we have a critical and more challenging responsibility—we must uphold our oath to protect the Constitution despite public condemnation and criticism.

We have to see the passion, the clamor, and the public outcry through the prism of the oath we are sworn to uphold. We have to pause in the midst of the frenzy and recognize the gravity of the amendment we consider.

Ultimately we have to do what is right. We 100 men and women have to act as the conscience of our Nation.

We have to search our hearts and minds for a solution that does not betray the principles that underlie our democracy.

We owe that to the American people—to those in whose shadow we stand and to those whose future we hold in our hands.

We cannot allow the Constitution to become a forum for partisan battles. The issue is not political symbolism, political posturing, or political elections. Demagoguery has no place in discussions of the future of this Nation's Constitution.

It is too important for that.

For if we surrender those values that unite us as Americans, what then do we become?

And if we vote to amend the Constitution to overrule the Supreme Court's decision in this case, where do we stop?

Do we vote for constitutional amendments whenever the latest public opinion polls indicate public dissatisfaction with a decision of the Supreme Court? If public opinion surveys become the standard, by the end of the century we are going to need computer programs to decipher our Constitution.

Mr. President, this is the Constitution of the United States. This little booklet that I carry in my pocket is the Constitution of the United States.

Look what happens, though, when we amend everything to cover every possibility. Here is the Internal Revenue Code. These four piles of books, the Internal Revenue Code and the regulations that go with it. And here is the Constitution of the United States. This little booklet.

Do we dare risk turning this cherished charter, beautiful in its simplicity, into a morass like this?

In my 14½ years as a U.S. Senator, I threatened to filibuster one time—when the Reagan administration launched an assault on the Freedom of Information Act. I did not acquiesce to that attack on the first amendment principles of open, free government.

I shall not acquiesce to this attack.

I am telling Senators now that toying with the first amendment, this is where I draw the line, and this proposed constitutional amendment is where I make my stand. I will oppose the proposed constitutional amendment aggressively. I can conceive of no more important way to uphold the profound oath I took to defend and support the Constitution of the United States of America.

The Bill of Rights has survived unchanged for two centuries. Amending

it will be a monumental moment in the history of this body.

I can assure my colleagues that we will not consider any changes to our fundamental liberties in 36 hours or 36 days. We will explore each possibility, each ramification, and each conceivable cost—no matter how long it takes.

More than 200 years ago, Patrick Henry said, "Perhaps an invincible attachment to the dearest rights of man may, in these refined, enlightened days, be deemed old fashioned." Perhaps that is the case today. If so, I, like Patrick Henry, prefer being an "old-fashioned fellow"—an old-fashioned fellow who knows in his heart that the simplicity of the Constitution is perhaps our Founding Fathers' wisest bequest.

The Constitution has endured through historic changes unimaginable to those who crafted it—a bloody civil war, a great depression, battles over civil rights, and the threat of nuclear destruction. Through each crisis, the Constitution not only has endured, but has grown stronger and more vibrant.

As Chief Justice John Marshall said, the founders wrote the Constitution "To endure for ages to come, and consequently, to be adapted to the various crises of human affairs." What a bold and enlightened undertaking.

In conclusion, Mr. President, we are at a watershed. We can succumb to the passions of the day or we can remain true to the enlightened principles we all hold dear.

FLAG DESECRATION STATUTE

Mr. CRANSTON. Mr. President, I join with the distinguished chairman of the Senate Judiciary Committee, the Senator from Delaware [Mr. BIDEN], in introducing legislation today which would amend title 18 of the United States Code to make it a Federal crime, punishable by a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, for anyone who knowingly mutilates, defaces, burns, displays on the floor or ground, or tramples upon any flag of the United States.

This legislation is designed to respond to the recent decision of the U.S. Supreme Court in Texas versus Johnson by amending the existing Federal statute relating to desecration of the flag in a manner which would make such acts punishable without violating the constitutional standards set forth in that decision.

Mr. President, the constitutionality of the current Federal statute is questionable in light of the decision in the Texas case insofar as it makes it a crime to "cast contempt" publicly upon the flag in by any of the specified acts of desecration. The majority opinion in the Johnson decision clearly focused upon the constitutional prohibition against punishment of the communication of ideas; by removing all references in the existing Federal statute to the ideas communicated and penalizing only the physical act itself, this legislation would, in the view of noted constitutional scholars, withstand constitutional challenge.

In other words, Mr. President, Federal law, as amended by this legislation, would make it a crime to commit the physical act of burning, mutilating, or trampling the flag. It would thereby remove the reference to the communicative or expression aspect which renders the current statute constitutionally questionable under the recent decision.

I believe this is an effective and appropriate response to the dilemma which the Texas decision has created. The American flag symbolizes our Nation and our ideals, and I do not believe that the Constitution of the United States prohibits Congress or the States from taking appropriate legislative steps to protect this unique symbol from deliberate mutilation or wanton destruction. A careful reading of the decision in the Johnson case makes it clear that the result might well have been difficult if the Texas statute had separated the physical protection of the flag from punishment for the expression of particular ideas. As the Court specifically stated,

> The Texas law is * * * not aimed at protecting the physical integrity of the flag in all circumstances, but is designed instead to protect it only against impairments that would cause serious offense to others.

Lawrence H. Tribe, professor of constitutional law at Harvard Law School observed in a recent New York Times article,

> Properly understood, the Court's decision upheld no right to desecrate the flag, even in political protest, but merely required that Government protection of the flag be separated from Government suppression of detested views. Texas went astray by punishing * * * Johnson for the views he publicly expressed in burning the flag instead of punishing him for the bare fact of this desecration of that special object.

Mr. President, I believe that a statutory approach to this problem is a swifter, more precise remedy than a constitutional amendment. At least three proposed constitutional amendments have been introduced in the Senate and are pending before the Judiciary Committee. The three I have seen use very general language which would empower government entities to take steps to protect the flag from physical desecration. The limits of that power are not defined, as they are in the statutory aproach which delineates the specific prohibited acts and the penalty for violation of the statute. Unless a constitutional amendment is drawn with great care, we might well see some overzealous Government bureaucrat attempting to fine a citizen for using the stars and strips as decorative material. This type of display of our Nation's symbol has become standard at patriotic events—witness the bunting displayed around the speaker's platform at a typical Fourth of July or Memorial Day event. We need to proceed very carefully in this area. I'm not convinced any of the draft proposals for constitutional amendments do so. The Biden statutory approach does so. It is narrowly drawn to deal with a specific problem.

Mr. President, I want to speak for a moment to those who believe that any action in this area—statutory or through a constitutional amendment—would violate the principles of the first amendment. I respectfully disagree. I yield to no one in my dedication to preservation of freedom of speech and expression. However, there are few absolutes in any area of governance, including freedom of expression. Great defenders of the civil liberties and the first amendment such as Chief Justice Earl Warren, Justice Hugo Black, and Justice Abe Fortas have all expressed the view that a simple prohibition on flag burning would not violate the first amendment. Justice Black observed in a 1969 case,

> It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American Flag an offense.

The United States is a democracy, not an anarchy. The concept of ordered liberty embodies laws and restraints that our people abide by and that includes certain areas of conduct which might be construed to be expressive in nature. For example, we do not permit citizens to walk down the streets naked, although displays of public nudity may be a form of free expression to some. Government entities now restrain free expression through a complex web of laws and regulations directed at behavior and actions. Trademark and copyright laws restrict certain aspects of speech. Respect for the dead underlies laws prohibiting desecration of graves or inappropriate display of corpses. Zoning laws restrict our use of private property in manners that might well be expressive. What is not permissible and what should never be tolerated in this country is the use of the law to single out and punish particular ideas. That was the fatal flaw in the Texas statute. The legislation which has been introduced preserves that important distinction.

Mr. President, I am pleased to be an original cosponsor of this legislation and hope that it will move swiftly through the Congress so that flag can be accorded the protection that it deserves as symbol of our heritage and identity as a nation of people bound together for the common good. Millions of Americans have fought valiantly, and many have died to protect

this symbol of our Nation. I believe we can protect the flag from abuse in a manner consistent with the values and ideals that the flag and our Nation represents.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I first of all want to agree with both Senators BIDEN from Delaware and COHEN from Maine. This is not a partisan issue in the sense that we are going to attack anyone's motivation. I think there are honest differences of opinion and some may conclude that we maybe should follow both the statutory and constitutional amendment approaches. I supported the Biden bill that was offered to the child care bill. I think it has been slightly modified since then. I have some reservations about the Biden bill. I think that these reservations will come out in testimony when we have the hearings on the constitutional amendment. There are going to be 4 days of hearings.

We have a unanimous-consent agreement now which protects those who want a statutory approach, those who prefer a constitutional amendment, or those who may decide that we need to do both.

Under the agreement, we will take up the statutory approach first, then there will be a week recess in October, and then the first order of business when we come back will the constitutional amendment. This, I think, is a fair arrangement. I know some of my colleagues are concerned because the agreement we entered into on this floor, myself and the majority leader, contains a provision that no other flag amendments will be in order until we can dispose of these two major pieces of legislation.

The purpose of this provision is to make certain that the focus is where it should be, on a statutory approach versus a constitutional amendment.

We did not want to clutter up every bill that came along with some flag amendment. We think the issue has been joined. We will have witnesses, certainly constitutional experts and others, who will appear before the Judiciary Committee.

So I would send to the desk the joint resolution to amend the Constitution cosponsored by myself and Senator DIXON, Senator THURMOND, Senator HEFLIN, and 49 others.

The PRESIDING OFFICER (Mr. GRAHAM). The resolution will be received and appropriately referred.

Mr. DOLE. We have 53 cosponsors on the joint resolution. We need 67 votes if we are to pass the constitutional amendment.

My view is there are going to be 67 votes. And it is also my view that the Supreme Court, 28 days ago, made a red, white, and blue blunder. It ruled that our Nation's flag did not deserve special protection—constitutional protection from desecration.

Twenty-eight days ago, this Senator called the Court's decision a mistake. But far more important than what this Senator said, the American people—in powerful and emotional tones—also said it was a mistake. Most are hopping mad, and I cannot blame them.

In their outrage, they are demanding that Congress do something—to act quickly and decisively to fix a major error by our Highest Court.

I must say that I read the opinion. I read it a couple of times. You could come down, I assume, on either side. You could read Justice Brennan's opinion and say: "Oh, it sounded pretty good." Then you could read Justice Rehnquist's opinion. To me, this opinion sounded better.

Since that time, some people have tried to sell the notion that this was a 24-hour issue—that emotions have now cooled, and that the American people really do not care anymore.

Some of the people who live inside the beltway and who write editorials and commentaries, who like to think they speak for all the American people—and they do not speak for many at all—said, "Oh, this is not an issue." Then we heard all of the intellectual arguments and editorials that said we were going to infringe on the first amendment, freedom of speech, and that we should not tinker with the Constitution.

All these arguments may sound good in somebody's ivory tower somewhere, but they do not sell too well in the VFW hall in Russell, KS, or anywhere in America. Maybe they are great guns in the press gallery. But when you get out where the people are, when you go out to a military cemetery or to a military funeral and when you see the military escort fold the flag and hand it to the widow or the children of someone who has been killed in service of his country, then you realize that the flag is a powerful symbol.

How many flags do we have flown over the Capitol each year by Members of this Senate? I would bet thousands and thousands of flags are flown over the Capitol at our request so that they can be sent back home for some special occasion in our States.

The flag, in my view, is more than a symbol. It ought to be protected by the Constitution. It should not be burned. It should not be mutilated. It should not be trampled upon. And that is the constitutional approach.

On October 16, we will be standing here debating the constitutional amendment. The amendment that Senator DIXON and I have introduced may not be perfect. Maybe there ought to be a word or two changed. Some have suggested a change or two.

But it would seem to me that with the people who have contacted me and the people who have written to me, we need to have constitutional amendment protection.

I watched on C-SPAN the first day of hearings on the House side. There were very good witnesses at the hearings and very good questions from people who have different views. So I want to lay to rest any thought that somehow if we do not agree with one approach we are attacking someone's motives or someone's patriotism or someone's politics. That is not the case at all.

I want to commend President Bush for giving us leadership on this issue. He wants a constitutional amendment to save the flag from the hands of the desecrators and anyone else who relishes the thought of putting a torch to Old Glory. I commend the President for that.

So we have had a number of flag protection measures introduced in the House and in the Senate. We have had hearings open on the House side.

My staff and I have carefully reviewed these measures, and have come to the conclusion that there is really only one way to get the job done; only one fix that will satisfy the American people; and only one remedy that is equal to the lofty status of Old Glory—so today, as I have said before, the U.S. flag deserves nothing less than constitutional protection.

Again, I do not criticize the good faith efforts of Members on both sides who are trying to produce legislation that might reverse the Court's ruling—I applaud them. Senator BIDEN, Senator ROTH, and Senator COHEN, for example, are working hard on amending the Federal flag desecration statute. It is a solid effort. But, in my view, it will not do the job. Let me tell you why.

As I said, I supported the Biden bill and I may vote for it again. But is there a guarantee in the Biden bill that it will constitutionalize the Federal flag desecration statute? There is no guarantee at all. We might have to wait 3 to 5 years for the courts to put their stamp of approval or rejection stamp on the statute.

The Biden bill does nothing to ensure the constitutionality of the flag statutes that are now on the books in 48 States. The State legislatures are closer to the people, and the people have made their views known in their State legislatures. These 48 State statutes deserve protection. The President's constitutional amendment—simple and straightforward—accomplishes this goal.

For those reasons and others, it seems to me that the best approach is the constitutional approach. Certainly both warrant full debate. We are going to have full debate. We are going to have comprehensive committee review and that is why, as I indicated before,

the leaders agreed to this dual-track approach in the committee.

After careful consideration in the committee, both approaches will come to the Senate floor and, for purposes of Senate consideration, they will be separated just by a 1-week recess. That will give the American people an opportunity, if they wish to focus on the statutory approach or the constitutional approach, to see them side by side.

I share the view expressed by the distinguished Senator from Delaware [Mr. BIDEN] before the House Judiciary Committee: This should not be a partisan debate. I have worked very closely with Senator DIXON, going back to the trampling case in his own State of Illinois. As far as I know, there are no partisan politics involved. Some of us have different views. And some of us in this Chamber are constitutional experts. I am not a constitutional expert, so I may have a slightly different view.

So it seems to me that we are on the right track. I commend the majority leader for helping to work out an agreement and I commend Members on both sides for not objecting to the agreement. We are going to approach this as a serious matter. It is a serious matter. We may fail in the final effort to amend the Constitution. But the amendment process has been clearly laid down by the Founding Fathers.

It is a long process—a two-thirds vote in the House and the Senate, and ratification by 38 States. That is not easy to do. If the legislatures in the various States decide, or the Congress decides, or one House decides, that constitutional protection is not a good idea, that is the end of it. But, in my view, the American people are not going to change their view on the American flag. In fact, I think it may be a little stronger now than it was when the Court first handed down its decision.

So I am very proud to join with Senator DIXON, Senator THURMOND, Senator HEFLIN, Senator WILSON, and many other Senate colleagues, in introducing a joint resolution calling for a constitutional amendment to protect our flag. I am proud to say that the amendment has majority support in this Chamber—53 cosponsors, and we hope to have four or five more before the day is out. These cosponsors are both Democrats and Republicans.

I do not take amending the Constitution lightly, as I have said. The cosponsors do not take it lightly, either. It is serious business. It requires serious reflection, serious debate, both here in Congress and in State legislatures across our country. It could be a long and difficult process. I do not think it will be very long. It may prove not to be too difficult. It may just whip through the States.

I know in my home State of Kansas, our Governor wants to be the first Governor to take up this process and have the legislature ratify it first. Well, he may not have that opportunity, but at least that is an indication of the feeling in the Midwest.

If the amendment is not ratified, if it fails to survive the amendment process, then so be it. The American people will have spoken. But if the amendment is ratified, if the amendment receives the approval of two-thirds of Congress and three-quarters of the State legislatures, then the American people also will have spoken and their voice will be heard loud and clear.

Mr. President, I wish to thank my colleagues who have cosponsored the joint resolution for a constitutional amendment. I look forward to the debate and the committee hearings. In my view, whatever happens, we will make the right decision.

I ask unanimous consent that the text of our joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 180

Whereas the Flag of the United States of America is a national symbol of such stature that it must be kept inviolate;

Whereas the physical desecration of the Flag should not be considered constitutionally protected speech; and

Whereas physical desecration may include, but is not limited to, such acts as burning, mutilating, defacing, defiling or trampling on the Flag, or displaying the Flag in a contemptuous manner: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"The Congress and the States shall have power to prohibit the physical desecration of the Flag of the United States.".

The PRESIDING OFFICER. The Senator from South Carolina.

PROPOSED CONSTITUTIONAL AMENDMENT TO ALLOW PROHIBITION OF DESECRATING THE AMERICAN FLAG

Mr. THURMOND. Mr. President, I rise today as an original cosponsor along with the distinguished minority leader, Senator DOLE, Senator DIXON, Senator HEFLIN, and others to introduce on behalf of President Bush a proposed constitutional amendment which would protect our American flag from physical desecration.

This constitutional amendment would effectively overturn the Supreme Court's decision in Texas versus Johnson which allows protesters to burn and physically desecrate the American flag.

Immediately after the Supreme Court's decision, I introduce a proposed constitutional amendment with 41 cosponsors to accomplish the objective we seek today.

As of today, we have 45 cosponsors on that amendment. However, after discussions with the Bush administration, the distinguished minority leader, and others, we have determined that today's proposed language is also an acceptable, simple and straightforward approach to protect the American flag.

Both proposals are succinct and make clear that the Congress and the States have power to prohibit the physical desecration of the flag of the United States.

I am disheartened that the Supreme Court has seen fit to sanction the contemptuous desecration of one of the most admired and venerable symbols of democracy in our Nation's history.

It is unfortunate that we must now pass a constitutional amendment to protect the American flag which has symbolized American democracy for over 200 years.

Mr. President, I must say, my good friend Senator BIDEN has introduced a statute to offset this decision. I shall be pleased to support that statute. It may get results. We do not know. There is some doubt, through, as to whether it will.

I think the only sound and safe way to approach it is to pass a constitutional amendment.

The recent decision by the Supreme Court struck down the laws of 48 States and also our Federal statute which prohibits the physical desecration of the American flag. The Supreme Court has couched its decision in terms of the first amendment's protection of freedom of speech. As generally recognized, the first amendment does not give an absolute protection for freedom of speech. The physical desecration of the American flag should not be protected under the first amendment.

The State legislatures and an overwhelming majority of Americans are now looking to the Congress to protect the integrity of our beloved national symbol—the flag of the United States of America.

Our flag represents our Nation, our national ideals and our proud heritage. As a shining beacon for democracy, the American flag has flown for over 200 years. Old Glory has earned the respect and admiration of freedom loving people all over the world.

Our Armed Forces and American veterans who have bravely defended

our freedoms must truly be angered and dismayed by the Supreme Court's decision. Throughout our history the American flag has led brave men and women into battle and served as an inspiration in the defense of our dramatic ideals.

Mr. President, the Supreme Court has opened an emotional hydrant across our country demanding immediate action to overturn this overreaching decision. It is, indeed, a feeling of great pride to know of the sincere patriotism that runs deep through our Nation.

We have a profound responsibility to act swiftly in passing a constitutional amendment and submitting it to the States for ratification.

I urge my colleagues to join us in our effort to restore the proper civil respect to the American flag. The United States flag, the symbol of freedom and democracy, must always be protected from desecration and forever wave over the land of the free and the home of the brave.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

THE AMERICAN FLAG—A SYMBOL OF IDEAS AND VALUES

Mr. COATS. Mr. President, often the American flag's unique power to move and inspire is only evident when displayed in times of crisis. Like on the day that it was draped over the caskets of those who died on the battleship *Iowa*. Or on the day it was burned by chanting Iranian fanatics during the hostage crisis.

These unforgettable images provoke a kind of pride and anger that is easier felt than explained. They are emotions that do not need to be syrupy or sentimental, but they are rooted in one solid and extraordinary fact—that the flag somehow embodies the selflessness of thousands of men and women who died to preserve an American experiment in freedom.

But now the Supreme Court has discovered a curious and disturbing new constitutional right. Ironically, as a flag flew over its white-marbled building, the Court determined it was perfectly legal to burn the American flag as a form of political speech.

The case they decided began with a protest at the Republican National Convention in 1984. In front of city hall, a protester doused the American flag with kerosene and set it aflame while several dozen others chanted, "America, the red, white and blue, we spit on you."

This kind of desecration provokes in most Americans, including myself, the sort of emotion that can keep you awake at night.

It is not that Americans are insecure. We do not blindly follow traditions, but we do care deeply about symbols—particularly this symbol, this one symbol of ideas and values for which men and women have sacrificed and died in every generation in our country's history. To desecrate the flag, I believe and most Americans believe, is to desecrate their memory and make light of their sacrifice.

There is a type of patriotism that is held so deeply that it finds expression in concrete things like a patriot's crippled body—or in bits of colored cloth. For those who have risked death in service of a flag it is more than just a symbol, it is a tangible sacrifice you can actually hold in your hand.

The flag bears our pride in times of celebration. It bears our grief at half-staff. But it should not be forced to bear the insults of a calloused and deformed conscience.

Men and women who we ask to die for a flag have a right to expect deference for that flag by those who benefit from their sacrifice. It is part of the compact we make with those who serve. Until this decision, it was the law in 48 States, and it must be the law once again—even if that takes a constitutional amendment to accomplish this purpose.

Tolerance is an important thing in a free and diverse society. Agreement must never be a prerequisite for civility. But tolerance can never be rooted in the view that nothing is worth our outrage because nothing is worth our sacrifice.

Chief Justice Rehnquist authored a stinging dissent to this misguided decision, arguing:

> Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution or flag burning.

Justice John Paul Stevens added, referring to the ideals of American patriotism:

> If those ideas are worth fighting for—and our history demonstrates that they are—it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration.

Yes, we must be tolerant. But we must never adopt an enervating and cowardly disdain that strips us of patriotic conviction and dulls our ability to be offended by the desecration of vital symbols. "In the world it is called tolerance," wrote Dorothy Sayers, "But in hell it is called despair * * * the sin that believes in nothing, cares for nothing, enjoys nothing, finds purpose in nothing, lives for nothing, and remains alive because there is nothing for which it will die."

Mr. President, I yield the floor.

PROTECTING THE AMERICAN FLAG FROM PHYSICAL DESECRATION

Mr. D'AMATO. Mr. President, let me commend my distinguished colleague from Indiana for the eloquence of his remarks, and I would like to be associated with him. I do believe that he has encapsuled the feeling of so many, not only in this body and in the House of Representatives, but more important what Americans feel. The flag, indeed, is the embodiment of this great Nation. None of us seek to keep people from exercising not only their constitutionally protected rights, but their God-given rights, to express themselves—whether it is with displeasure toward our country, or its Government, or its leaders. I do not believe, however, that the framers of the Constitution ever intended that flag desecration be protected under the first amendment and used, as some would use it, for the purposes of speech or disdain. Rather, it is uniquely a symbol and protecting it is not a test of whether or not we would deprive people of free speech.

I believe that we need a constitutional amendment to deal with this. While I will support Senator BIDEN's legislation, I see further challenges, further constitutional challenges. I see a turbulence in our society with regard to whether or not people can undertake the desecration of the flag and then claim constitutional protections of freedom of speech. I would suggest to those who say that a constitutional amendment is a dangerous procedure, that to rely upon the legislative approach would simply continue this controversy and this agony that so many people feel, a very distressful one.

The amendment of the Constitution is a very difficult process, very arduous. It requires approval of two-thirds of the Members of the Congress, both the House and Senate, and three-quarters of the States, and so it should be. But I believe, Mr. President, that it is a proper response to the decision of the Supreme Court and will ease the agony that so many people feel in their heart at this time.

Mr. President, I rise today in support of Senate Joint Resolution 180, a proposed constitutional amendment to protect the American flag from physical desecration. I commend Senators DOLE and DIXON for bringing together a bipartisan group, constituting a majority of the Senate, in support of this amendment.

The Supreme Court's decision permitting desecration of the flag has both enraged and divided the American people. I do not believe this case poses a choice between the first amendment and protection of the dignity of our flag. Americans are free to criticize our Government and our Gov-

ernment's policies—that is a fundamental right we are vigilant to safeguard. Protecting that right does not mean we must or should permit any conduct no matter how offensive or destructive.

This amendment focuses on specific conduct—desecration of the flag—and does not prohibit or impede the expression of any idea or view. We do not lightly propose an amendment to the Constitution, and the amendment process is appropriately arduous. This amendment is, however, a proper response necessary in light of the Supreme Court's decision.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I am also very pleased to cosponsor this resolution proposing an amendment to the Constitution to protect the flag of the United States. Obviously, my reason for doing so is because I disagree with the Supreme Court decision of Texas versus Johnson. If I thought we could correct this decision by statute, I might prefer that, rather than a constitutional amendment.

However, in the final analysis, I do not think that we are going anything extraordinary here, because I think we should remember that this is not the first time that a Congress of the United States has responded to a Supreme Court decision by proposing a constitutional amendment to change that decision.

I think the second thing we want to remember is that the Supreme Court spoke on this very important issue by just the barest of margins, 5 to 4.

The First Congress added the first amendment to the Constitution to ensure that robust, yet reasoned, debate take place on the issues of the day. Even speech that is outrageous or that questions the very foundation of our Republic, or that is just out-of-sync with the vast majority of the American people, is in fact, and ought to be, protected by the first amendment.

And, subsequent decisions by the Supreme Court have determined that even some conduct or gestures in conjunction with speech, should enjoy the protection of the first amendment.

Make no mistake about it, there should be no restrictions on the legitimate free speech rights of Americans, and this includes the right of individuals to advocate views with which a majority of Americans do not agree, or even to the point where the person speaking that point of view may be the only one out of 240 million people who believes that point of view.

However, the Founding Fathers did not mean that "anything goes" when the issue of speech is involved. In Chaplinsky versus New Hampshire, the Supreme Court in 1942 stated that even "fighting words are no essential part of any free expression of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

Again in Chaplinsky, the Court determined that there is no constitutional protection for the "lewd and obscene, the profane, the libelous, and the insulting or 'fighting words'—those which by their very utterance inflict injury or tend to insight an immediate breach of peace."

Although the flag is, indeed, an object, it is not just another piece of cloth or fabric or just another identifying banner. To think of it as such is to trivialize that flag.

We are here to state that the flag of the United States should be protected against physical desecration. However, we are not here to consecrate that flag because there is nothing that this body can do to bring more meaning to the flag than the acts of those people who, in over 200 years, have shed their blood in the defense of that flag. There is nothing we can do here that can substitute for their sacrifices.

But, we can legitimately say something about the physical desecration of the flag so that we do not detract from its consecration over the past 213 years.

The flag is the unique symbol and manifestation of our nationhood. Clearly, the free speech clause does not protect those who desecrate the flag, especially when their conduct results in inflaming the passions of Americans who have risked their lives in order that this Nation remain—not only independent and whole—but true to the ideals of freedom and liberty that are contained in the Declaration of Independence and the Constitution.

I also believe that when we allow the flag to be burned, we insult those who in the defense of these ideals have made the ultimate sacrifice.

Finally, I would like to read the remarks of Jim Bethard of the little town of Clermont, IA, who spoke during a Memorial Day commemoration in 1895.

Mr. Bethard was a veteran of the Civil War. In 1862, he answered President Lincoln's call for 600,000 volunteers and entered the war as a private. In 1865, he was mustered out at the same rank of private.

Jim Bethard said:

> With the succession of moving and strongly contrasting events that compose the history of a Nation's life, the national flag is so closely associated as to become, in men's minds, the emblem and visible presence of the Nation, personified.
>
> It floats tranquilly over the turning points of battles which determine the Nation's existence, crowning its triumphs, gracing its festivities, draping its halls of legislation and justice, drooping in its defeats, and shrouding the dead bodies of its heroes.
>
> If, like a mirror, the flag could reflect the scenes it has beheld, if it could reflect the voices it has heard, it would reproduce the history of the past and the prowess of individuals in endless detail.
>
> * * * It is proper * * * [to inculcate] a spirit of patriotism and love for the old flag in the hearts of the young, the coming men and women, for in a republican form of government the loyalty of its people is the only guarantee of its perpetuity.
>
> It has been truly said that eternal vigilance is the price of liberty * * * then let us be vigilant and not miss an opportunity to teach lessons of patriotism and love of the old flag and the institutions it represents to those who are shortly to become its guardians.

This year, the Supreme Court lowered the flag of which Jim Bethard spoke so eloquently 94 years ago. I believe that an amendment to the Constitution to protect the very same flag is in order.

I urge my colleagues in the Senate to support this amendment.

Mr. HEFLIN. Mr. President, I rise today in support of both the constitutional amendment and the statute which will prevent the desecration of the American flag. As an original cosponsor of these bills, I urge my colleagues to join me in protecting the sanctity of this symbol of our great Nation. As I have said before on the Senate floor, I feel that the Supreme Court's decision in *Texas* v. *Johnson*, No. 88-155, slip op. (U.S. June 21, 1989), incorrectly places flag burning under the protection of the Constitution. In my judgment, it is our responsibility to start the process to reverse this decision and return the flag to the position of respect it deserves.

Few people would disagree with the argument that the American flag stands as one of the most powerful and meaningful symbols of freedom ever created. In the dissent in Texas versus Johnson, Chief Justice Rehnquist states in his opening paragraph, "For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation, a uniqueness that justifies a governmental prohibition against flag burning in the way * * * Johnson did here." *Id.*, slip op. at 1 (C.J. Rehnquist dissent). Justice Stevens calls the flag a national asset much like the Lincoln Memorial. He states that, "Though the asset at stake in this case is intangible, given its unique value, the same interest supports a prohibition on the desecration of the American flag." *Id.*, slip op. at 3-4 (J. Stevens dissent). I must agree with Chief Justice Rehnquist and Justice Stevens in their belief that the flag should be protected from such desecration. However, I believe that the flag also has a tangible value. I feel that the Court could have expressed an opinion that would have allowed protection to both values, for in this case, the flag was stolen.

The flag holds a mighty grip over many people in this country. Its mystical appeal is as unique to every person as a fingerprint. Each person's feelings

about the flag begin at an early age and are continually shaped and reinforced throughout their lives. Early school days began this process as children stood by their desks saying the Pledge of Allegiance and beginning classes with the words "with liberty, and justice for all." The power of the flag grows as the flag becomes a common part of life. From Veterans Day parades where veterans proudly march through the streets holding high the flag they valiantly protected in battle to the singing of the "National Anthem" at special events, honoring the flag becomes an integral part of our lives.

Thousands of Americans have followed the flag into battle and thousands of these Americans have left these battles in coffins draped proudly by the American flag. Nothing quite approaches the power of the flag as it drapes those who died for it—or the power of the flag as it is handed to the widow of that fallen soldier. The meaning behind these flags goes far beyond the cloth used to make the flag or the dyes used to color Old Glory red, white, and blue. The flag reaches to the very heart of what it means to be an American. It would be a tragedy for us to allow the power of the flag to be undermined through the legal desecration of that flag. Allowing the legal burning of that flag creates a mockery of the great respect so many patriotic Americans have for the flag.

JUDICIALLY WRONG

As I have stated before, I feel on many different levels that the Supreme Court's decision was wrong. I feel it was wrong for me personally, it was wrong for partiotism, it was wrong for this country, but perhaps most importantly, this decision was judicially wrong.

I want to emphasize that although I am a strong believer in first amendment rights, I recognize that first amendment rights are not absolute and unlimited. There have been numerous decisions of the Supreme Court that limit freedom of expression.

In a landmark case reflecting the Supreme Court's long held belief that the Freedom of expression is not absolute, the Court in *Schenck* v. *United States*, 249 U.S. 47 (1919), stated that "The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing a panic." Justice Holmes further stated that "The question in every case is whether the words [actions] used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent." *Id.* at 52. Clearly the public outcry and indignation caused by the decision and the fisticuffs which have broken out over recent flag burning attempts show that flag burning should not be protected by the first amendment. What if the flag burning had occurred in wartime? Certainly, a clear and present danger would be present.

Justice Stevens wrote in *Los Angeles, City Council* v. *Taxpayers for Vincent*, 466 U.S. 789 (1984), that "the first amendment does not guarantee the right to imply every conceivable method of communication at all times and in all places." *Id.* at 812.

There have been other decisions which show that if words or actions create danger either for individuals or for society, then these expressions do not fall under the protection of the first amendment. In the earlier case of *Chaplinsky* v. *New Hampshire*, 315 U.S. 568 (1942), the Supreme Court recognized that certain inherently inflammatory remarks or actions come within the class of "fighting words" which are "likely to provoke the average person to retaliation, and thereby cause a breach of the peace." *Id.* at 573. Moreover, the prevention and punishment of such have never been thought to raise any constitutional problem. Certainly, burning an American flag in front of patriotic American citizens can be taken to fall under the realm of fighting words. The Supreme Court should have held that the burning of an American flag amounts to symbolic fighting words and thus is not protected by the first amendment.

Arguments have been made that limitations on the freedom of expression refer only to cases involving bodily harm, however, the Supreme Court has recognized the need for individuals to protect their honor, integrity, and reputation when injured by libel or slander. See, for example, *New York Times* v. *Sullivan*, 376 U.S. 254 (1964) (providing standards regarding the libel of public figures); *Time, Inc.* v. *Hill*, 385 U.S. 374 (1967) (providing standards regarding libel of private individuals). These holdings protect an individual's honor from defamation. I see no reason why the honor of our flag should not be protected.

Arguments have also been made that limitations on free speech involve only civil suits. However, the Court has continually upheld criminal statutes involving obscene language and pornography. *New York* v. *Ferber*, 458 U.S. 747 (1982) (upholding a New York statute regarding child pornography), *Miller* v. *California*, 413 U.S. 15 (1973) (this case provides the current legal framework for the regulation of obscenity).

The U.S. Supreme Court has even upheld criminal statutes involving draft card burning. In *United States* v. *O'Brian*, 391 U.S. 367 (1968), the Court upheld the Federal statute which prohibited the destruction or mutilation of a draft card. In reaching this decision the Court expressly stated, "[W]e cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in the conduct intends thereby to express an idea." *Id.* at 376. Certainly the people of America have a right to expect that the honor, integrity, and reputation of this Nation's flag should be protected. If draft card burning can be prohibited, surely burning the American flag can also be prohibited. Does a draft card have more honor than the American flag? Certainly not.

In an earlier decision involving the desecration of the flag, Chief Justice Earl Warren wrote in dissent in *Street* v. *New York*, 394 U.S. 577 (1969), "I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace * * * However, it is difficult for me to imagine that, had the Court faced this issue, it would have concluded otherwise." *Id.* at 605. In this same case, Justice Hugo Black dissented stating, "It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense." *Id.* At 610. I do not think that anyone can question that Hugo Black and Earl Warren were champions of the first amendment, but they recognized that the flag was something different, something special. The Supreme Court substantiated this view in *Smith* v. *Goguen*, 415 U.S. 566 (1974), when the majority of the Court noted that "[C]ertainly nothing prevents a legislature from defining with substantial specificity what constitutes forbidden treatment of the United States flags." *Id.* at 582-583.

Finally, I would like to quote from Justice Stevens' in dissent in *Texas* v. *Johnson*, No. 88-155, slip op. (U.S. June 21, 1989), when he says about the flag: "It is a symbol of freedom, of equal opportunity, of religious tolerance, and of good will for other people who share our aspirations. The symbol carries its message to dissidents both at home and abroad who may have no interest at all in our national unity or survival." *Id.*, slip op. at 2 (J. Stevens dissent).

I am a strong believer that the rights under the first amendment should be fully protected and do not feel that amendments changing these rights should be adopted except in very rare instances. The Founding Fathers, in drafting article V of the Constitution, intended that it would be extremely difficult to amend the Constitution, requiring a two-thirds vote of both Houses of Congress and a difficult ratification process requiring the vote of three-fourths of the States. The history of this country shows that only 26 amendments to the Constitution have been adopted and only 16

after the bill of rights (containing the first 10 amendments) were ratified.

Why should we adopt a constitutional amendment? If I were convinced that legislative changes could correct this error of the Supreme Court, then I would not push for a constitutional amendment, but I strongly believe that legislative changes in flag protection statutes will be an exercise in futility. But nevertheless, I will support legislative changes. However, I do not think that we should wait to consider a constitutional amendment. I think we ought to pursue both now.

In my judgment, we must act to ensure that the American flag remains protected and continues to hold the high place we have afforded it in both our hearts and our history. The flag is indeed an important national asset which we must always support as we would support the country herself. I want to share with you the eloquent words of Henry Ward Beecher's work, "The American Flag," which expresses this sentiment.

A thoughtful mind, when it sees a nation's flag, sees not the flag only, but the nation itself; and whatever may be its symbols, its insignia, he reads chiefly in the flag the government, the principles, the truths, the history which belongs to the nation that sets it forth.

GADSDEN AMBASSADORS

When this case came up, I thought of an old story I heard that says a lot about the American flag. As you may know, Alabamians are very proud of our musical heritage and of the many outstanding performers from our State. One of these groups, the Gadsden Ambassadors, who are led by H.M. Freeman, has cut a record which includes a patriotic medley telling one man's story about the American flag.

It seems there was a man who visited a small town for the first time and talked to an old man sitting on a park bench. He told the story like this:

I walked through a county courthouse square one day. On a park bench, an old man was sitting there. I said, "Your courthouse is kinda run down."

The old man said, "Naw, it'll do for our little town."

I said, "Your flag pole has leaned a little bit. And that's a ragged old flag you got hangin' on it.

He looked at me and said, "Is this the first time you been to our little town?"

I said, "I think it is."

He said, "Have a seat son." So I sat down. He said, "We don't like to brag, but we're kinda proud of that ragged old flag. You see, we got a hole in that flag there when Washington took her across the Delaware. And she got powder burns the night that Francis Scott Key sat watching her and writing, 'O say can you see.' She got a bad rip down in New Orleans with Pakenham and Jackson tugging at her seams. She almost fell at the Alamo beside the Texas flag, but she waved on though. * * * The south wind blew hard on that ragged old flag. On Flanders Field in World War I, she got a big hole from a burp gun. She turned blood red in World War II. She hung limp and low a time or two. She was in Korea, Vietnam. She went where she was sent by her Uncle Sam. Yeah, her flag waved on the ships upon the briny foam. But now she's about to quit waiving back here at home. In her own good land here, she's been abused. She's been dishonored, denied, burned, refused. And the government for which she stands is scandalized throughout the land. Yeah, she's growing threadbare and she's wearing thin, but she's in good shape for the shape she's in. Because she's been through the fire before, and I believe that she can take a whole lot more. So we raise her up every morning; we take her down every night. Naw son, we don't even let her touch the ground. We fold her up just right. On second thought son, I do like to brag. Because, I'm mighty proud of that ragged old flag."

Mr. DECONCINI. Mr. President, I am pleased to be a cosponsor of the constitutional amendment that will protect the integrity of our flag. Our flag is the living symbol of our great Nation. We must protect that symbol, keep it alive.

Our flag is as old as our country itself. She has served to unify our separate States, and has represented our national sovereignty around the world. During the American Revolution, she announced to the world the independence of the United States of America. She survived our Civil War. Our American soldiers raised her at battlefields during the First and Second World Wars. The American flag represents our achievements, our dreams, the hope for peace of not just our citizens but of people everywhere.

We have taught our children, as we were taught, to respect our great flag. We have taught our children to stand when she is raised, to lower her at sunset and during storms, to never let her touch the ground. We must continue this great tradition of respecting this most important symbol of our Nation. Three of the Supreme Court Justices dissenting in Texas versus Johnson recognized, in Chief Justice Rehnquist's words, that "millions and millions of Americans regard [the flag] with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have."

Our Constitution, like our flag, has survived for generations. And to ensure that she will continue to survive, we undertake the task of amending the Constitution cautiously. But protecting our flag from physical desecration is so important that a constitutional amendment is justified. In fact, our Constitution would in no way be weakened by an amendment that specifically protects this country's flag. A constitutional amendment will offer the appropriate protection that our flag so rightfully deserves.

Mr. DANFORTH. Mr. President, I am proud to be a cosponsor of the resolution offered by Senators DOLE and DIXON proposing an amendment to the U.S. Constitution to allow the Congress and the States to prohibit the physical desecration of the flag of the United States. The flag is the most significant symbol of our Nation and the fundamental values that are the foundation of our Republic. The recent Supreme Court decision is Texas versus Johnson protecting the burning of the flag as free speech has rightly outraged citizens throughout this country.

I am a strong believer in the right of each individual to dissent and to express his views without regard to their popularity and without fear of governmental retribution. Such freedom of speech is indeed central to our democracy. But burning the flag is not speech; it is the destruction of property that every American in a sense owns. Because the flag represents our Republic and its fundamental values, every citizen has an interest and a stake in its protection. An individual may own a particular flag, but that does not give him the right to mistreat or destroy it. As Chief Justice Rehnquist noted in his dissent in Johnson, our society has long recognized that the flag is a special kind of property and that ownership of a flag brings with it special responsibilities.

To allow the ruling of the Supreme Court in Texas versus Johnson to stand uncorrected would undermine respect for the Constitution and the rule of law. The American people will not stand for a constitutional principle so removed from the common sense experience of ordinary life as to turn an act of vandalism into a high-minded form of political speech protected by the Constitution. As the outrage and years of strife following the Supreme Court decision in Roe versus Wade have shown, when the Court stretches the Constitution to create rights with no basis in the actual words of that document, public respect and confidence in the judiciary and the Constitution itself are damaged.

Mr. President, I take the process of amending the Constitution very seriously. Such action should never be taken lightly. However, given my concerns regarding the dangers inherent in the Supreme Court decision, I believe that some corrective action must be taken. A number of possible solutions have been suggested, including a revision of existing flag desecration statutes to meet the concerns raised

by the Supreme Court in Texas versus Johnson. My own reading of the Johnson decision, however, convinces me that anything short of a Constitutional amendment will not be effective in protecting the flag.

The amendment process will not be a quick one. Nor should it be. Careful deliberation is called for in matters of such importance. Introduction of this resolution, however, is an important first step. I commend President Bush for his leadership on this issue and I urge my colleagues to devote their energy and thoughtfulness to a careful consideration of this amendment. The country and the Constitution deserve no less.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

THE RIGHT TO EXPRESS AN OPINION

Mr. KERREY. Mr. President, I rise today to express my thoughts concerning the June 21, 1989, Supreme Court decision known as Texas versus Johnson, in which the Supreme Court protected the right to express an opinion by burning an American flag.

At first I, like most Americans, was outraged by the decision. It seemed ridiculous to me that flag burning could be a protected act. My anger grew when I watched a replay of the 1984 incident, which also included the expression of derogatory chants and epithets against the United States of America.

I joined with 96 other Senators expressing our disagreement with the decision. As I prepared to head home for the Fourth of July recess, I declared my disbelief at our apparent impotence in protecting this symbol of American freedom.

Then, during the recess, I read the decision. Mr. President, I was surprised to discover that I agreed with the majority. I was surprised to discover that I found the majority argument to be reasonable, understandable, and consistent with those values which I believe make America so wonderful.

Further, I was surprised to discover that after reading this decision my anger was not directed at Justices Brennan, Scalia, Kennedy, Marshall, and Blackmun who joined in the majority. Rather, it was the language of the dissent which angered me, particularly that of Chief Justice Rehnquist whose argument appears to stand not on 200 years of case law which has supported greater and greater freedom of speech for Americans, but on a sentimental nationalism which seems to impose a functional litmus test of loyalty before expression is permitted.

Today, I declare that I do not support any of the constitutional amendments which are being offered by my colleagues and friends as a necessary remedy to this decision. I will not yield in my belief that these amendments create problems rather than solving them.

Today, I am even skeptical about the need to pass anti-flag-burning laws at the State or the Federal level. Even this response seems more patronizing than necessary.

Today, I am disappointed that the strength of leadership shown by President Bush in his travels to Poland and Hungary was not shown here at home. President Bush did not stand before the angry and distressed mob to stop us in our tracks before we had done something we would regret. He did not offer words that calmed us and gave us assurance that the Nation was not endangered. Instead of leading us, President Bush joined us.

The polls showed support for a constitutional amendment and so the President yielded to his political advisers. Even though most Americans had not read the decision prior to being polled, even though they did not understand what is potentially at stake if our Bill of Rights was altered, the President chose the path of least resistance and greatest political gain.

I believe we should slow down and examine what it is we are about to do. I believe we should look at the decision carefully. And I believe if we do, we are less likely to conclude that action is even needed.

I believe that we should look first at the two States of the 50 States in this Nation that do have anti-flag-burning laws. Ask yourself how it is that Alaska and Wyoming have survived without such laws. Is it because they are less patriotic than the citizens of 48 other States? Is it because they simply were not aware of the great danger that exists to each of them if such laws were not passed?

Or is it because they simply recognize that no danger exists? Is it because they recognize there is already a sufficient amount of unwritten negative sanctions against flag burning without the need for the law makers to act further? I suspect it is the latter. I suspect that a law making it illegal to burn the American flag in Wyoming or Alaska is simply seen as unnecessary.

Mr. President, there is simply no line of Americans outside this building or in this Nation queuing up to burn our flag. On the face of the evidence at hand it seems to me that there is no need for us to do anything. The only reason to speak at all is to give credence to the cynical observation of H.L. Mencken who said: "Whenever you hear a man speak of his love for his country, it is a sign that he expects to be paid for it."

I also believe that a complete reading of the decision will yield the very strong impression that the court broke no new ground. Nor did it create any new rights, protections, or guarantees. Rather, it applied longstanding and settled principles of law to this specific case.

The Court's decision was the fifth since 1931 that found use or abuse of the flag to be a form of expression protected by the Constitution. The Court has long held that the first amendment applies to conduct as well as pure speech. Such conduct is protected if it meets two tests: First, if an intent to convey a particular message is present, and second, if it is likely that the message would be understood by those who viewed it, the conduct is protected, as the Court has held in the cases of students wearing black armbands, picketing, and attaching peace signs to the flag.

Not only has the Court protected such offenses as burning, it has also protected acts which commercialize this symbol of freedom and liberty. Mr. President, even the recent and, to many Americans, offensive act of the chair of the Republican National Committee is protected. I thought of the American flag when I saw the photograph of Mr. Atwater in Esquire magazine, clad in boxer shorts and a sweatsuit, rendering a right hand salute, a gesture normally reserved for the flag or those who fight to defend it.

I could not help but notice that President Bush is tolerant of these sorts of actions. For example, I heard no reprimand or anger when the Director of the Office of Management and Budget performed a similar stunt on the day that President Bush went to the Iwo Jima Memorial to impress upon Americans that we needed protection against the offense of flag burning.

Mr. President, America is the beacon of hope for the people of this world who yearn for freedom from the despotism of repressive government. This hope is diluted when we advise others that we are frightened by flag burning.

John Stuart Mill, in his 1859 essay "On Liberty" offered three reasons that the expression of opinion should rarely be limited. First, the suppressed opinion might be right; its suppression might deprive mankind of the opportunity of "exchanging error for truth." Second, even though the opinion might be false, it may contain "a portion of truth," and "it is only by the collision of adverse opinions," each of which contains partial truth, "that the remainder of the truth has any chance of being supplied." Third, even if the opinion to be silenced is completely wrong, in silencing it mankind loses "what is almost as great a benefit as that (of truth), the clearer perception and livelier impression of truth, produced by its collision with error."

Mr. President, flag burning is clearly in the third category. It does not persuade us that the burner holds an opinion that is true. It persuades us that his opinion is untrue. And it gives

us the opportunity to see what true freedom and true patriotism is.

Patriotism means loving one's country. And like any kind of love, it is fundamentally a personal, even private act.

It is the patriotism of mothers and fathers who provide a loving environment for their children to grow to their full potential. It is the patriotism of the men and women who farm our farms, toiling tirelessly to make ends meet while producing food for the rest of us. It is the patriotism of teachers who put in the extra hours to help their students do better in school. It is the patriotism of our local police who go in harm's way to keep us feeling safe and secure.

It is the patriotism of nurses and doctors who help us heal. And it is the patriotism of all of us who pay our taxes, register to vote, contribute to church and charity, and love our country.

Finally, Mr. President, Chief Justice Rehnquist, in his disappointing dissent, asserts that men and women fought for our flag in Vietnam. In my case I do not remember feeling this way.

I remember that my first impulse to fight was the result of a feeling that it was my duty. My Nation called and I went. In the short time that I was there, I do not remember giving the safety of our flag anywhere near the thought that I gave the safety of my men.

I do remember thinking about going home and I remember why that home felt so good to me. I remember realizing how wonderful my mother and father were. I remember longing to be back in the old neighborhood. I remember most vividly on the night that I was wounded, with the smell of my own burning flesh in my head, that I knew I was going home, and how happy I was with that certainty.

America—the home of the free and the brave—is my home, and I give thanks to God that it is. America—the home of the free and the brave—does not need our Government to protect us from those who burn a flag.

I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended to permit me to address the Senate, and following my remarks that, in this order, Senators WILSON, GRAMM, and WARNER be recognized to address the Senate for 5 minutes each, and that upon the completion of Senator WARNER's remarks, the Senate then stand in recess until the hour of 2:15 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

FLAG PROTECTION ACT—S. 1338

Mr. MITCHELL. Mr. President, I am pleased to cosponsor the legislation proposed by the chairman of the Judiciary Committee, the purpose of which is to make Federal law on the destruction of the American flag conform to the requirements of the first amendment.

This bill will ensure that the flag will be protected against physical destruction or abuse, for whatever purpose, with the appropriate penalties under law.

This legislation is what is needed to make certain that the Federal flag statute can withstand challenge by making the act of destruction itself the offense, rather than the purpose for which the act is carried out. The flag law would thereby punish vandalism against the flag, just as other, similar laws, punish vandalism against other national monuments.

The freedom of speech clause of the first amendment to the Constitution explicitly protects the right of all Americans to speak freely. It says nothing about actions. The speech provision of the Constitution protects the right of Americans to say things, but does not create a right to do things.

The Supreme Court has both limited and expanded the first amendment's protection.

As a limitation, it has imposed restrictions on some forms of speech. In the 1919 case of Schenk versus United States, Justice Oliver Wendell Homes wrote that:

> The character of every act depends on the circumstances in which it is done. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater and causing a panic.

Those words represented a commonsense principle of behavior that is essential to preserve a civil society with free speech. Clearly, no first amendment right would today protect a statement by an airplane passenger that he was about to explode a bomb, even if his purpose was to call attention to his political views.

The Court has expanded first amendment protection to certain actions, even though the amendment itself specifically protects only speech. The Court has reasoned that certain actions are closely related to speech and should be regarded as a form of speech, particularly where political ideas are involved.

In those cases involving action—the Court calls it "symbolic speech" or "expressive conduct"—the Court balances the governmental interest in prohibiting the conduct against the burden placed on the individual by not permitting the conduct to occur.

In reaching that balance, reasonable people can, do, and have disagreed.

In the flag burning case itself, the Court divided 5 to 4.

In another case, a divided court ruled that homeless persons wishing to demonstrate their destitution could not sleep in the square before the White House. The Supreme Court said that sleeping was not a form of speech protected by the Constitution.

In another case, local statutes barring demonstration within a certain distance of foreign embassies have been upheld, because they do not unduly burden speech, and they serve valuable government purposes.

In my judgment, the principle applied in those earlier cases applies to the actions in the flag case.

The protesters were not denied the right to speak. They chose to burn the flag as an addition to that right, not as a substitute when speech was impossible or endangering.

The facts in the case are not in dispute. Gregory L. Johnson, apparently leading a group of demonstrators outside the 1984 Republican Convention, poured kerosene on an American flag and set a match to it, while his group chanted: "America, the red, white, and blue, we spit on you."

Those words, offensive as they are to me and the vast majority of Americans, are protected by the first amendment. To my knowledge, no one disputed their right to say those words. Nobody interfered with their right to speak freely. They were not prevented from speaking.

But they did not merely speak. They also acted. It was this action which was punished, not the speech.

Indeed, they may well have burned the flag in order to obtain the attention that their speech itself would not have garnered.

The first amendment may guarantee the freedom to speak. It guarantees nobody an audience for his words.

And if these protestors' purpose was to compel attention that their words alone could not attract, there is no constitutional obligation to provide that attention.

I agree with the dissent of Justice Stevens in this case, when he said, "The case has nothing to do with 'disagreeable ideas' * * * it involves disagreeable conduct * * *". Justice Stevens is right. The five-man majority of the Court is wrong.

Justice Stevens made the point succinctly:

> Had [Johnson] chosen to spray paint * * * his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset.

The flag is also a national asset, although admittedly an intangible one.

We need not permit acts that undermine its value for all Americans in order to avoid burdening in slight fashion the speech rights of those who seek to be heard in the face of indifference, not persecution.

Every American has the right to speak freely and to dissent from the policies of the Government or from the orthodox and accepted views of the day. It is precisely that vast freedom that makes it so unnecessary to condone the desecration of the flag as a way to express dissent. The Court's decision is wrong and it should be corrected.

The Senate has already acted to provide that correction. It has unanimously approved an earlier version of this legislation. But because of the importance of the issue to so many of our people, a freestanding bill should be considered.

I have already set forth the proposed timetable under which the Senate will be able to give deliberate thought to the most appropriate way to correct this Court ruling.

The chairman of the Judiciary Committee has consulted with constitutional scholars on the validity of this approach. Scholars whose personal views on the ruling in question vary have given it as their considered opinion that this legislative approach now being introduced would serve to resolve the issue.

I hope that the course of the hearing, which the Judiciary Committee is committed to holding in September, will reassure all Americans that this legislation represents a full, adequate and sufficient response to the narrowly drawn ruling in Texas versus Johnson. I believe it does so, and I am glad to cosponsor it.

The PRESIDING OFFICER. Under the previous order, the Senator from California [Mr. WILSON], is recognized for a period not to exceed 5 minutes.

Mr. WILSON. Mr. President, 44 years ago, 6,000 courageous U.S. marines sacrificed their lives in attack upon Iwo Jima which culminated in the raising of the American flag on Mount Suribachi.

Just 5 weeks ago, on June 21, 1989, the U.S. Supreme Court decided by a 5-to-4 vote that those who burn or otherwise desecrate the American flag have a constitutionally protected right under the first amendment to do so.

Mr. President, I profoundly and emphatically disagree.

What is more, I do not think that those of us who do disagree can simply shake our heads in dismay and passively suffer such acts which insult the memory, the courage, and sacrifice of better men who ironically have laid down their lives protecting the freedom of even contemptible ingrates who abuse it.

But we seem to be of three minds on this floor. There are those of us who are outraged and think that the act of flag burning and desecration should be prohibited, in some cases think that it should be prohibited by an amendment to the Constitution of the United States which makes it clear that the protections of the first amendment do not extend to such acts. There are others who would prohibit flag burning by a statute. And there is a third group who think that we should show the strength of democracy and uphold our Constitution by simply ignoring the act.

Let us first address the debate that exists between those who support an amendment to the Constitution and those who propose a prohibition merely by statute.

To put the question most simply, Mr. President, there undoubtedly will be a continuing debate between constitutional scholars as to whether or not a statute will suffice for that purpose or whether an amendment to the Constitution is required. As long as that debate continues, it seems to me rather obvious that the simple resolution of it is to adopt the amendment and put an end to the debate.

Now, that leads us to the question of the wisdom of doing so, which again to put it simply has to do with what depredations will result from that amendment to the cherished first amendment rights of Americans.

Mr. President, I fervently believe that the right of free speech given Americans by the first amendment is the most important of all the rights established by the bill of rights. But the framers of the first amendment did so to protect the utterance of unpopular speech—speech critical of a government or its policies, or its laws or regulations—so that citizens who wished to protest what they saw as the unjust exercise of power by their government could do so without fear—knowing that their rights to express such opinions would be protected by the supreme law of the land.

God knows we all believe in that. No one is proposing that we diminish that most precious of American rights. Heaven knows I exercise it, and so do all Senators, almost daily on behalf of our constituents on the floor of the Senate.

But that is not what is at issue here. The framers of the first amendment did not intend that its protections should include all speech! The first amendment was not intended to license obscenity nor speech which poses physical danger to the public. The distinguished majority leader just quoted the time-honored, celebrated phrase of the great Oliver Wendell Holmes who declared that the right of free speech does not give an individual the right to yell "fire" in a crowded theater.

And in the case of flag burning, we are not dealing with speech at all, but rather, with the physical act of desecration of the unique symbol of America, of all our history and aspirations as a free people. The distinction between speech, oral or written, and the symbolic act of burning the flag, America's unique national symbol, should be obvious.

However tasteless it might be to speak ill of the dead, no one doubts that such speech is protected constitutionally by the first amendment. But would anyone suggest that the first amendment protections should be extended to exonerate someone who enters a cemetery and physically defaces a headstone with a hammer and chisel or a can of spray paint? Of course not.

If we were to accept the implicit rule of the Supreme Court majority in the flag burning case, is there any action which could not be legitimized as free speech by the mere assertion that the act is intended as political protest or dissent?

Under so fatuous a rationale, it appears that even an act of treason could be dignified as political dissent entitled to the protections of the first amendment.

I submit that so liberal a construction of the first amendment would make its framers shudder in their graves.

I say that it is not necessary to protect freedom of speech, be the speech or writing in question be legitimate criticism of government or nonsense, popular opinion or a distinct minority view.

I say that the framers who felt so passionately that free speech must be protected would have rejected in outrage so tortured a construction of the first amendment.

And I say that those same farmers, to whom we are indebted down to this generation for the priceless legacy of individual freedom, were entitled to expect that we would respect it as well.

Liberty is not license.

The wide latitude America has accorded individual freedom does not require that it be utterly unbounded by any reasonable limits of decency and responsibility.

To the contrary, to keep faith with those who left us the priceless legacy of the Bill of Rights at such great cost, we must in decency meet our responsibility to set altogether reasonable and justified limits upon the abuse of the first amendment.

And indeed the courts have upheld laws which prevent hate groups like the Ku Klux Klan from such symbolic acts as burning crosses.

It is even a Federal crime to deface a U.S. Government mail box or to burn a dollar bill.

It simply should be and must be against the law to burn or otherwise

desecrate the unique national symbol of America, the flag of the United States.

So, Mr. President, to those who agree that desecration of our national symbol should be prohibited, I say let us resolve the conflict between constitutional scholars by resolving all doubt or uncertainty as the adequacy of a statutory prohibition. Let us do so by adopting a precise constitutional amendment focused narrowly upon America's unique national symbol, the American flag.

I agree that amendments to the Constitution should not be undertaken except with great care. Proper care should be exercised and can be to property maintain the dignity and integrity of the flag. To say that constitutional amendments require such care is no argument against taking necessary steps to prohibit desecration of the flag by a precise and carefully drawn amendment.

Such care has been exercised in the past, and wise—indeed precious—amendments have been adopted in other times when loud voices shouted, " * * * not by amending the Constitution."

Well, Mr. President, let me remind those who would appoint themselves the exclusive guardians of that magnificent charter and who righteously argue against its amendment, that had their argument prevailed in those other earlier moments in our history when America undertook to improve even the U.S. Constitution, and did in fact amend it, * * * why then, Mr. President, today women would not have the vote; some Americans would still own other Americans as slaves, and none of us, ironically, would be guaranteed any of those rights and freedoms given to us by the bill of rights and symbolized by the American flag.

AMENDING THE CONSTITUTION

Mr. GRAMM. Mr. President, I do not think today we are going to settle the issue about when the Constitution should be amended and when it should not. I remind my colleagues that at the founding of the Nation, Benjamin Franklin wrote the Post Office into the Constitution, but yet our founders refused to put in the Bill of Rights. We later came back and corrected that. We have amended the Constitution 26 times. The issue before us today is: Should we amend the Constitution to protect the flag?

Mr. President, I believe that we have to answer several questions. One is, is this an important enough issue? I believe it is. The flag is the symbol of the Nation. I can tell my colleagues, having spent 10 days back in Texas during July, the people in my State believe that we have an obligation to protect the flag. It may not be an important issue to those who see the world through a lens focused here in Washington, DC, but from Muleshoe to Beaumont in my State it is a very big issue. From young children to old veterans, it is something about which people feel very strongly.

Second, Mr. President, we have to ask ourselves if burning the flag is necessary to free speech. I think not. I believe in free speech. I think people have a right to jump up and express their opinions. If they want to set their britches on fire to call attention to themselves, as long as they do not set anybody else's on fire, they have a right to do so. But I do not believe that they have the right to burn the flag. I think we have an obligation to protect that flag.

Quite frankly, if a bill is brought to the floor to protect the flag, I intend to vote for it. But I am concerned, given the ruling of the Supreme Court, that no simple statute will stand up. It may well be that the Court would uphold a burning provision if it were applied to someone who started his fire every morning by burning the flag, saying, "I do that to get the fire started but I do not do it as any kind of form of free speech." On the other hand, by and large our people do not do that. Mostly, flag burners are people who want to express a strong hatred for America and its institutions. So my guess is that we are going to have to protect the flag through the Constitution. I am in favor of doing that.

Finally Mr. President, I think we have an obligation to protect the Nation's symbol. I cannot see that the Nation is any poorer by it in terms of free speech. People will still be able to express their opinions, burn the President's picture, burn a map of the country or just jump up and down to seek attention. They simply will not be able to desecrate the flag.

Back home this is a big issue. I think people have a right to disagree. The people who oppose the constitutional amendment do not love the flag any less than I do, they simply have a difference of opinion. In my view, it is not free speech to burn the flag, and taking away the right of people to desecrate the flag does not limit their ability to say they hate America or its institution or its leaders. It simply protects a single symbol that is the embodiment of the country. I think it is vitally important we do that. I think the people want it done. I support it.

I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to express my appreciation to the distinguished majority leader who made possible the extension of this time. I also wish to commend him on his very thoughtful and incisive statement.

THE CONSTITUTIONAL ROUTE

Mr. President, I will address one aspect of this issue which I find absolutely fascinating. That is that every American has an opinion on this subject. It does not require a law degree. It does not require a college degree. It requires only an expression of the heart. That is why I want to see as many Americans as possible involved in deliberating on this decision. I want to accord to every American just as much responsibility as I have to make that decision.

That is the reason I favor so strongly the constitutional amendment, although I will support both. For the constitutional amendment does not require a simple majority here. To the contrary, the framers carefully stated that two-thirds of both Houses of Congress of the United States have to render their judgment. This decision is so important that it adds another element of insurance to have not a simply majority, but two-thirds to render a decision.

Then it goes on to the States. And it is not a rushed procedure. That is another element that is important. There is plenty of time under the constitutional route to ensure that we reach the right result.

Once it goes to the 50 State legislatures, there are no less than 7,461 State legislators, all of whom will have a vote in many respects just as important as the vote of a Member of the U.S. Senate.

I am privileged to represent in the Commonwealth of Virginia nearly 6 million people. As hard as I try, as much as I travel, and I enjoy it, I can meet and receive the views but a small fraction of those individuals. But the distinguished President of the Senate having come up through the State legislature knows himself the ease of accessibility of a State legislator. Why, citizens can forgo a visit to Washington to see me or to see the Presiding Officer, or go to the expense of a call or write. They can, right in their own backyard, ask their State legislator to come over, sit down and freely and carefully and thoughtfully discuss this issue.

Therefore, if we go the constitutional route, nearly 8,000 legislators, 535 in the Congress of the United States, and 7,461 in the State legislatures will bring to bear the judgment of all the people.

It is almost provincial that the Founding Fathers when they laid down this procedure foresaw there would be issues that would involve the totality of our Nation, and that could receive the expression of the opinions of everyone. That is why I think the wiser course of action is to go with the constitutional amendment.

I will give my strongest endorsement, and look forward to an act of

participation here on the floor of the Senate.

I support the distinguished Republican leader's legislation and President Bush's call for an amendment to the Constitution of the United States which would give Congress and the States the power to prohibit the desecration of the flag. I am proud to be an original cosponsor of this legislation.

Decisions are made by the Government on almost a daily basis which affect the citizens of this great Nation. Some of these decisions are popular, some are not, and some go unnoticed by vast groups of people. But, in this Nation's system of government, the people ultimately have the last word. Let them exercise their rights through a constitutional amendment.

Rarely do we witness a decision, as in the Supreme Court's ruling in Texas versus Johnson, that reaches the core of every individual's mind, heart, and soul. Schoolchildren who work to learn how to recite the Pledge of Allegiance sense that there is something wrong in burning the American flag.

Virginians feel very strongly on this issue and I am pleased so many are contacting me and providing their views.

I understand that my distinguished colleague from Delaware [Mr. BIDEN] has crafted alternative legislation which would prohibit desecration of the flag, short of amending the Constitution, through a statutory revision of the United States Code. While I will support both approaches to resolving this vital issue, I strongly prefer the constitutional amendment route.

Why? Because I believe the American people should have the greatest possible opportunity to speak out on this controversial issue and to participate fully in reaching the right solution.

The procedure to amend the Constitution, which was devised over 200 years ago, requires the participation of all 50 State legislatures. The Founding Fathers of our Nation wanted to protect these living instruments, our Constitution and Bill of Rights, and the more people who become involved, the more likely the result—amendment or no amendment—will be the proper solution. It will be the solution which not only protects our flag but our equally cherished right of freedomn of expression of our individual views.

Although I will support action by Congress to enact a statute, we are only 535 Federal lawmakers compared to 7,461 State legislators. Therefore the constitutional amendment procedure demands the individual judgment of nearly 8,000 men and women rather just 535 in Congress. This far greater breadth in number is insurance that our solution will be correct. Further, a far greater period of time, time for careful reflection, perhaps several years, will be necessary to complete the constitutional amendment procedure. Is not this better than a brief debate in the Congress?

Through a constitutional amendment, the views of all Americans would be better reflected on this controversial issue. Citizens then will be able to participate in this decision at both the State and Federal levels.

People will not have to travel or call Washington to express their views; they can talk to their State legislator in their own back yards.

Let us make certain that constitutional scholars alone do not have the final word on this important issue—rather let Main Street America guide both their Federal and State legislators to a proper and balanced solution.

I urge my fellow colleagues to join the distinguished Republican leader and myself in cosponsoring this important legislation.

Mr. MACK. Mr. President, shock waves of concern and anger swept over our Nation as a result of the recent Supreme Court ruling permitting desecration of our flag. The American flag, emblazoned with its bold stripes and shining stars, has always been a symbol of freedom and democracy throughout the world. So many of our countrymen have fought and died in defense of our basic freedoms and our flag, that many Americans were stunned by the Supreme Court's approval of flag burning.

The Court's decision strikes at the heart of all we hold dear in this country. The flag is our most cherished symbol of liberty and is recognized throughout the world as an emblem of hope for those struggling for political freedom. The flag must be preserved and protected from willful destruction.

In past years, we have witnessed the steady erosion of basic American values. These values, including support of property rights, respect for families, and the appreciation of liberty, have suffered severe blows. Respect for the flag and all it represents is perhaps one of the final vestiges of these collective values. We must not condone the immorality embodied in the desecration of our flag.

I support President Bush's proposal for a constitutional amendment to protect the sanctity of the American flag. With such an amendment, we can uphold our first amendment rights provided under the Constitution while declaring clearly our reverence for and dedication to our greatest symbol of freedom—the American flag.

DESECRATION OF THE FLAG

Mr. McCLURE. Mr. President, I join my Senate colleagues today in calling for passage for a constitutional amendment which will allow the States to enact laws against desecration of the U.S. flag. In my judgment, the Supreme Court erred in its recent decision and I agreed with the dissenting opinions of Chief Justice Rehnquist, Justices White, O'Connor, and Stevens.

The first amendment, of course, is the very cornerstone of American freedom. It is what separates the United States of America from other countries where citizens are simply not allowed to think or speak for themselves. The recent events in China serve as a good reminder as to what a truly amazing country we live in. Imagine! A nation that has survived over 200 years of self-criticism.

But, Mr. President, not every right in America is absolute and I draw the line at desecration of the flag.

I will defend to my last breath the right to criticize the Government and its policies. I do it myself nearly every day. However, I also believe the flag holds a unique position in our society and in the world which should afford it special consideration. As Justice Stevens said in his dissent:

> It is more than a proud symbol of the courage, the determination and the gifts of nature that transformed 13 fledgling Colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.

I can think of no other act which is apt to enrage citizens of this country more, during a protest situation, than desecration of the flag. In the case recently decided by the Supreme Court there was no violence but there very well could have been. Indeed, in recent weeks, there have been violent encounters over flag burnings. The cause of the violence was not the protest demonstration itself—it was the fact that the symbol Americans hold most dear was being destroyed. Just as no one has the right to cry "fire" in a crowded theater, no one should have the right to destroy the flag.

There are those who are critical of Congress for discussing a constitutional amendment to address this problem, saying that it is not a widespread problem. However, I don't think that is the point. The point is that the American people are absolutely outraged that the Constitution does not adequately protect the greatest symbol of the free world. The people of the United States have the ultimate responsibility at deciding if the Constitution should be amended. They are asking to exercise that right and I believe it is Congress' duty to answer the people's demand.

Mr. SIMON. Mr. President, as I mentioned the other day, we are in hysteria because one person burned a flag and now we want to amend the Constitution.

I happen to agree with the Supreme Court decision. But to change the Constitution because of one 5-to-4 decision does not make sense.

James J. Kilpatrick wrote a column on the flag issue that tries to put some rationality into this whole debate.

I urge my colleagues of the House and Senate to read Mr. Kilpatrick's column, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, June 29, 1989]

THE FLAG WILL SURVIVE

(By James J. Kilpatrick)

President Bush is dead wrong in calling for a constitutional amendment to overturn the Supreme Court's ruling last week in the flag-burning case. Given the undisputed facts, the Texas law and the high court precedents, the case was properly decided. The defendant, one Gregory Lee Johnson, was engaged in a form of political "speech" that clearly merits protection under the First Amendment—and that precious amendment ought to be left alone.

The facts are now well-known. During the 1984 Republican National Convention in Dallas, demonstrators staged a march to protest policies of the Reagan administration. At some point in the march, one of the demonstrators stole an American flag and gave it to Johnson. In front of City Hall, "Johnson unfurled the flag, doused it with kerosene, and set it on fire." As the flag burned, the protesters chanted, "America, the red, white, and blue, we spit on you."

Johnson was arrested for violation of a Texas law governing "desecration of a venerated object." Specifically, he was charged with damaging the flag "in a way that the actor knows will seriously offend one or more persons likely to observe or discover his action." Johnson was convicted and sentenced to a year in prison, but the Texas Court of Criminal Appeals reversed the conviction: "The act for which he was convicted was clearly 'speech' contemplated by the First Amendment."

Only once before has the U.S. Supreme Court faced the issue of defacing a flag as a form of political expression. In 1970, Seattle police arrested Harold Spence for "improper use" of the flag. Spence had affixed a large peace symbol to the flag and then hung the flag upside down. His purpose was to protest the invasion of Cambodia and the killing of students at Kent State. The court found the state law unconstitutional in the context of political protest.

A whole string of decisions supports the sensible theory that free "speech," in a political context, embraces free expression. There are limits. When such expression takes the form of vandalism, is in spray-painting a swastika upon a Jewish temple, the First Amendment accords no protection. If Johnson's flag-burning stunt had set off a riot, the old exception for "fighting words" might have sufficed to affirm his conviction. But there was no such disturbance.

In the context of political protest, flag burning is the expression of an idea. Justice William Brennan said: "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

I cannot argue with that proposition, but I am consoled by the thought that the flag itself, and the American ideals for which it stands, will survive the asaults of such contemptible maggots as Gregory Lee Johnson. In the wake of the court's opinion, presumably we will see more flag burnings, but these too will pass. If the press will ignore such odious demonstrations, their point will be lost. Meanwhile, our most cherished ideal—the ideal of freedom—will be maintained.

CONCLUSION OF MORNING BUSINESS

Mr. DIXON. Morning business is now closed.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:53 p.m. having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:53 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 1990

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1160, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1160) to authorize appropriations for fiscal year 1990 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Helms amendment No. 269, to prohibit negotiations with terrorists responsible for the murder, injury or kidnaping of an American citizen.

(2) Grassley amendment No. 270 (to Amendment No. 269), a perfecting nature.

(3) Heinz amendment No. 272, to provide international support for programs of sustainable development, environmental protection, and debt reduction.

(4) Moynihan amendment No. 268, to prohibit soliciting or diverting funds to carry out activities for which United States assistance is prohibited.

AMENDMENT NO. 268

The PRESIDING OFFICER. There will now be 20 minutes of debate on amendment 268, to be equally divided between the Senator from North Carolina and the Senator from New York, with a vote thereon to occur no later than 2:35 p.m.

Mr. MOYNIHAN. Mr. President, I thank the Chair for commencing this very brief, and I hope concise, summary of the arguments that were set forth yesterday on this matter.

I ask unanimous consent that the following distinguished Members of this body be added as cosponsors: Mr. BINGAMAN, Mr. INOUYE, and Mr. KERRY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. PELL and Mr. SARBANES, were original cosponsors.

Mr. President, this is simple legislation with a large purpose. The legislation is summarized in section 220(f). It says:

Prohibition on soliciting or diverting funds to carry out activities for which United States assistance is prohibited.

It simply says that the officers of our Government may not do indirectly what they may not do directly in consequence of a provision of law. We are not dealing with any past events. This statute can only apply to future prohibitions enacted by Congress and approved by the President.

We do not seek to limit the President's powers. To the contrary, owing to an amendment offered in the Committee on Foreign Relations by the distinguished Senator from North Carolina, this provision concludes:

Nothing in this section shall be construed to limit the full constitutional powers of the President to conduct the foreign policy of the United States.

This, sir, far from being a limitation on the power of the President, is an effort to protect him against the overzealous and ill-guided subordinates; subordinates who would break the laws enacted by Congress and the President, in order to pursue objectives they think desirable but which cannot be in the context of a constitutional government and the rule of law.

Yesterday, we introduced a reading of the minutes of a high level meeting of the President in the White House—the President, the Vice President, the Secretary of State, the Secretary of Defense, and the head of the CIA—in which George Shultz, an honorable, careful man, spoke against a proposal to solicit money to carry out an activity for which Congress had denied funding. Mr. Shultz said that, on the advice of the now-Secretary, then Chief of Staff, Mr. Baker, that—and I paraphrase—"This, sir, is an impeachable offense." He had to say to the President, "You will be impeached, sir."

So our present arrangements have a gulf between doing nothing and impeaching the President. There is no restraint.

This is a simple, moderate measure which I hope will be adopted.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, may I add one more point. I would like to record that this measure was adopted by a unanimous voice vote in the Committee on Foreign Relations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield to the distinguished Republican leader, Mr. DOLE, such time as he may require.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I have discussed this amendment with the distinguished author, Senator MOYNIHAN. There is no one I have greater respect for than the Senator from New York.

I have also discussed this amendment with Secretary Baker by telephone this morning as they were flying back from wherever they are flying back from. Anyway, they are on their way back. We discussed the amendment, along with Under Secretary Eagleburger, a few moments ago.

It is the feeling of the administration that this amendment is a bad amendment and should be defeated; it should not be a party-line vote; that it is almost certainly unconstitutional on several grounds.

I believe there is also a feeling that we are getting sort of used to dictating to the President what he can do or cannot do or do in foreign policy. And that is bad enough—bad enough for the President, bad enough for those who advise the President. But this amendment goes even further. It dictates to the President what he can and cannot talk about—not what he can do, but what he can talk about with another government. And it is not just the President. We were told by Secretary Eagleburger it could be somebody all the way down the line, somebody who had a conversation somewhere, as long as they were officials. It is not just the President. The amendment does not apply to just the President or high-ranking people or officers of the Government. Officers means anyone working for the Government.

As the Justice Department states in a letter it has sent to the distinguished majority leader:

> This provision appears designed to prohibit * * * consultation between the United States and another sovereign nation regarding actions that nation may wish to undertake.

That kind of restriction strikes me as bordering on the absurd.

The amendment is also dangerously vague.

Vague because it seeks to make a legal test of a phrase—direct effects—whose meaning is solely in the eyes of the beholder.

Dangerous because it imposes on those who might be seen in someone's eyes as failing the direct effects test not only political disapproval and censure—but up to 5 years in jail.

The message to the President, the Secretary of State and the other members of an administration is chilling: If there is the slightest doubt about how some Monday morning quarterback down the road will see your action, in light of the vague direct effects test—then take no action. I am not certain we want to go down that road, either.

But even these are not the only serious problems with this amendment. It puts this Congress in the position of dictating, not only to the executive but to future Congresses, what should be the consequences of decisions by those Congresses to prohibit U.S. assistance to any country or group.

Finally, Mr. President, I would underscore what others have already said. This is a killer amendment. The President's senior advisers have notified us, formally and informally, that they will recommend a veto of this bill, if this amendment is part of it. And it was again repeated at noon. So I can assume maybe they are not bluffing. Nobody likes to throw a veto threat around because there is generally some way to work matters out. But if it stays as it is, I am advised that is not likely to happen.

Mr. President, as the earlier debate on this amendment makes clear, the objections to it go on and on. They are not partisan objections. They would apply no matter which party held the White House; should these provisions be enacted, they will straitjacket future Democratic Presidents, as well as the current Republican President.

I do not think the Senator from New York has many bad ideas, but this may fall into that category. Maybe just by accident, it may not be one of his better ideas.

As I have said, scholars tell us it is unconstitutional and it is a dangerous precedent. So I hope that we would take an objective look at the amendment and not have a party line vote because it is Republican and because Democrats control the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, as Senator MOYNIHAN's designee, I yield 1 minute to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I thank the distinguished majority leader.

Mr. President, I rise in support of the Moynihan amendment. I commend the very able and distinguished Senator from New York for moving with this. This is a revised amendment from what was considered in the committee. It makes clear, of course, that the amendment applies in a wholly prospective way; in other words, it is setting standards for the future. And it also has made it very clear that it applies only to specific activities which have been prohibited. I think that is a very important change and improvement in the amendment from the way we had it worded.

It is very simple, Mr. President; that is, when a law, which, of course, involves the Congress and the Executive working together, prohibits certain conduct, whether it is going to be possible for Federal employees to, in effect, circumvent that law. That is what we are trying to prevent from happening.

We will also achieve by this relieving the employees of the improper pressures to which many of them have been subjected in order to do this. This serves as a protection for the employee from being pressured into engaging in activities which clearly ought not to take place.

I commend the Senator for offering the amendment.

Mr. MOYNIHAN. I thank the able Senator.

Mr. MITCHELL. Mr. President, this amendment can be summed up in three words: Obey the law. That is what it says. Neither the President nor the Secretary of State nor any Member of the U.S. Government has the right or the authority to break the law.

Yesterday, in debate on this amendment, my good friend, the distinguished Senator from North Carolina, who opposes this amendment, said and I quote it—he is here now:

> Congress has no constitutional power to prohibit a foreign policy which any President wishes to pursue. The President of the United States, under the Constitution, can pursue any foreign policy he wishes if no funds are required to provide economic assistance or weapons of war or armies or the use of agencies of the Government.

With all respect, I strongly disagree with that assertion. The President of the United States is as constrained by law as is every other American. The President must obey the law and Congress has authority to make the law.

This is a democracy, not a monarchy. The President is not a king.

What this amendment says is that the President cannot break the law, the Secretary of State cannot break the law, and no member of the executive branch can break the law.

It is simple. It is straightforward. And I cannot for the life of me see how anyone could suggest that it is dictating to the President to say simply and straightforwardly that he is subject to the restraint of law, as is every citizen in a democratic society.

Indeed, one might look at many of the other amendments that are pending to this bill to find far more intrusive actions with respect to the President's prerogatives. This does not do so. This is not reliving the past. It is explicitly prospective. It applies only to future laws and future actions under those future laws. And I believe, Mr. President, this is an important amendment, appropriate amendment, and a necessary amendment. And the President ought to welcome this.

He ought to say to the members of his administration: You all must obey the law. And no members of my administration will be asked to break the

law nor should any member of any administration be asked to break the law.

Ours is a democracy in which all citizens stand equal before the law up to and including the President.

Correspondingly, Mr. President, I urge the Members of the Senate to approve this amendment as a modes, reasonable, responsible effort to ensure that there will henceforth be compliance with law and members of the executive branch of this Government will not be placed in the intolerable position of having to choose between loyalty to their President and loyalty to the Constitution; being directed to do something which is illegal and thereby being asked to forfeit either their job or their integrity.

This says that, if the law prohibits an act, it is prohibited indirectly as well as directly. Administration and other officials of our Government will not be placed in the unseemly and intolerable position of being required to take actions which would violate the law directly if taken.

The amendment offered by my distinguished colleague from New York is important and necessary.

In brief, it says that no U.S. government official should provide money or otherwise try to convince another government or individual to do something barred by U.S. law.

It is disappointing that such an amendment should even need to be considered here on the Senate floor. However we cannot ignore the fact that the actions that this amendment would ban have occurred or appear to have occurred in the past. We cannot ignore the need to ensure that such activities do not occur in the future. We must work to restore the faith that was ruptured in the wake of the Iran-Contra scandal.

Trust is a crucial element of a democracy. We must trust our elected officials, trust that they will faithfully execute the laws as they so pledge upon taking office. Similarly, we must have faith that the members of our military and foreign service will uphold United States law.

For this reason, it is important to clarify some apparent confusion about the limits of the law pertaining to funding for foreign countries or activities overseas.

This amendment would resolve this confusion by stating that if Congress bars funds for a country or group, no U.S. official can solicit funds for that country or group from another source.

The Moynihan amendment also states that if Congress bans such assistance, no third party can receive U.S. funds intended to advance the activity for which U.S. assistance has been barred.

The amendment establishes a penalty for those who violate these provisions, but the penalties would apply only to future prohibitions. There should be no misunderstanding that this amendment would only apply to efforts to circumvent laws passed in the future. It would not apply to existing U.S. law and would not apply to any actions that already have occurred.

In summary, the Moynihan amendment would ensure that U.S. officials do not circumvent U.S. laws prohibiting spending for activities abroad by urging another country to do what the United States cannot do or by giving money to another country to accomplish the goals banned by U.S. law.

The administration apparently opposes this amendment. I am troubled by this opposition. Does the administration feel it has the right to circumvent laws duly passed by Congress?

I would hope that the Bush administration would want to allay lingering congressional concerns about the uses of foreign assistance and respect for legal restrictions on U.S. activities overseas. Senator MOYNIHAN has done his best to accommodate the administration as he seeks to prevent future circumvention of laws that prohibit spending for activities abroad.

The Senate Foreign Relations Committee already had adopted by voice vote similar amendments. As modified by the senior Senator from North Carolina, these provisions were incorporated into the State Department authorization bill.

Senator MOYNIHAN withdrew those provisions at the request of Senator HELMS, agreeing instead to combine them and offer them as one amendment.

My distinguished colleague from New York has further modified his amendment to address specific administration concerns. His effort is an important one which I fully support. We must prevent the further erosion of trust between the Executive and Congress. We must prevent the circumvention of U.S. law prohibiting spending abroad.

I urge my colleagues to support the Moynihan amendment.

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes and 19 seconds.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Mr. President, the opposition to this amendment can be summed up in three words: Obey the Constitution.

Mr. President, it is important to recognize that both the Department of State and the Department of Justice have sent word in writing in which they say that they will recommend to the President a veto of this bill if the Moynihan amendment, even the revised Moynihan amendment, is adopted as a part of the Foreign Relations Authorization Act. So it boils down to this: Do colleagues want a veto or do they want a bill?

The President is going to veto this bill. I talked to his people on Air Force One early this morning. I think I know what is going to happen if this amendment is sent to the President.

If Senators want a veto, fine, go ahead and adopt this amendment, make it a part of this authorization bill. But do it knowing that this amendment will bring down the bill, if it is adopted.

Why is the administration, and all the rest of us who oppose it, so adamant? The answer is that the amendment is a clear, bald effort to usurp the foreign policy prerogatives of the President of the United States in a manner not provided for in the Constitution. When it comes to policy questions, Congress has only the power of the purse. This is what I said yesterday, and I repeat it because constitutional authorities far brighter than I am have assured me that this is the case. If it takes U.S. Government funding to pursue a Presidential policy, Congress can effectively stop it. But that is all Congress can do unless we want to get into the area, as Senator DOLE has just described, where everybody is scared to death to do anything to try to implement a policy.

Let us not kid ourselves. This is a revisiting, a making permanent of Iran-Contra. Ronald Reagan tried to prevent a takeover of Central America by the Soviet Union. He was fought every step of the way by the Congress of the United States and now we have Nicaragua sitting down there, thumbing its nose at us.

If the President can execute the policy without calling on the U.S. Treasury, then the Constitution puts up no barrier. I would like any Senator to point out a barrier specified in the Constitution.

This amendment does two things: First, it imposes criminal penalties on the U.S. Government employees who solicit funds from foreign or domestic entities for carrying out the same or similar activities for which U.S. assistance is prohibited by law.

Good Lord, Mr. President, if Franklin Roosevelt has had to labor under this kind of inhibition, he would not have been able to prosecute World War II. It might have been lost.

Second, this amendment prohibits all foreign assistance to a third party, a foreign country or any other entity, if that assistance would have the effect of furthering the same or similar activities for which U.S. assistance, that is, Federal funds, are prohibited by law.

I can understand the frustration of some Senators when the President pursues policies which are perfectly permissible under the Constitution, but with which the Senators disagree. Yes, Congress can cut off the funds. Congress has done that repeatedly and

just about destroyed our efforts in Central America. However, Congress cannot cut off the policy if it is accomplished without U.S. Government funds.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 58 seconds.

Mr. HELMS. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator will be advised that his time will continue to run.

Mr. HELMS. That is fine.

Mr. COHEN. Mr. President, may I ask who else has any time left other than the Senator from North Carolina?

The PRESIDING OFFICER. All time is expired except that which is controlled by the Senator from North Carolina.

Mr. HELMS. I yield the remainder of my time.

Mr. MITCHELL. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. They have not.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—57

Adams	Durenberger	Metzenbaum
Baucus	Exon	Mikulski
Bentsen	Ford	Mitchell
Biden	Fowler	Moynihan
Bingaman	Glenn	Nunn
Boren	Gore	Pell
Bradley	Graham	Pryor
Breaux	Harkin	Reid
Bryan	Hollings	Riegle
Bumpers	Inouye	Robb
Burdick	Johnston	Rockefeller
Byrd	Kennedy	Rudman
Cohen	Kerrey	Sanford
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dixon	Levin	Specter
Dodd	Lieberman	Wirth

NAYS—42

Armstrong	Cochran	Gorton
Bond	D'Amato	Gramm
Boschwitz	Danforth	Grassley
Burns	Dole	Hatch
Chafee	Domenici	Hatfield
Coats	Garn	Heflin
Heinz	Mack	Roth
Helms	McCain	Simpson
Humphrey	McClure	Stevens
Jeffords	McConnell	Symms
Kassebaum	Murkowski	Thurmond
Kasten	Nickles	Wallop
Lott	Packwood	Warner
Lugar	Pressler	Wilson

NOT VOTING—1

Matsunaga

So the amendment (No. 268) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 277

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE] proposes an amendment numbered 277.

Mr. GORE. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 49, between lines 18 and 19, insert the following:

SEC. 153. RESTRICTION ON POLITICAL APPOINTMENTS TO KEY POSTS.

(a) FINDINGS.—The Congress finds that—

(1) the United States must increasingly rely upon the professionalism and expertise of its diplomatic service to promote military, political, and economic objectives on which the national security of the United States depends;

(2) the practice of filling ever larger numbers of ambassadorial and key State Department posts with political appointees is undermining the Foreign Service as an instrument of American foreign policy;

(3) other major states do not engage in the practice of undermining their professional corps of diplomats for the purpose of granting political favors or of ensuring loyalty to the political line of the governing party;

(4) this practice has reached the point of causing the Foreign Service to curtail prematurely the careers of increasing numbers of its finest diplomats; and

(5) the range of political appointments to civil service positions has not generally exceeded ten to twenty percent, while the number of political appointments to ambassadorial and key State Department posts has reached as high as approximately forty percent.

(b) POLICY.—(1) Therefore, except in extraordinary cases where the President finds that a non-Foreign Service officer candidate possesses unique skills and information directly pertinent to the post to which he or she is to be assigned, and that the Foreign Service, as certified in writing by the Director General of the Foreign Service, does not have an equally qualified candidate for the same post in its active ranks, it shall be the policy of the United States that the President will not nominate persons from outside the career Foreign Service to more than 15 percent of all ambassadorial and key (Deputy Assistant Secretary and above) State Department posts.

(2) The Congress intends that the policy described in paragraph (1) should be enforced through natural attrition in the course of the term of the present President.

On page 3, after the items relating to section 152, insert the following new item:

Sec. 153. Restriction on political appointments to key posts.

Mr. HELMS. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I believe there is a pending amendment. The amendment is out of order unless that is set aside; is that not correct?

The PRESIDING OFFICER. They have been set aside and can be brought back only on proper motion.

Mr. HELMS. In that case, for the time being, since all I have to do is call for regular order, which I will not do, I suggest the absence of a quorum while I discuss it.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am going to call for the regular order.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The regular order is the Grassley amendment to the Helms amendment.

Mr. HELMS. That is correct. Now, Mr. President, I ask unanimous consent that the Grassley amendment be set aside temporarily so that the distinguished Senator from Tennessee can call up his amendment. I want to get this show back on track.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. We need to set aside the Grassley and the Heinz amendments. Is there objection to the request?

Mr. HELMS. Just add that. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I wonder if I might ask the Senator from Tennessee if I could see his amendment.

Mr. GORE. Certainly.

Mr. President, if the Senator from North Carolina will yield, we sent out a notice of it and the text of it will be immediately available to the Senator from North Carolina.

Mr. HELMS. The Senator is most gracious, and I appreciate it.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. HELMS. Mr. President, I think we ought to have order out of courtesy to the distinguished Senator from Tennessee.

I will not proceed until we do have order.

Mr. PELL. Mr. President, I would join in suggesting the Senate is not in order.

The PRESIDING OFFICER (Mr. REID). The Senate will be in order.

The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, may I inquire as to whether or not after the unanimous-consent request of the Senator from North Carolina the amendment which I earlier sent to the desk is now pending?

The PRESIDING OFFICER. It is now pending.

Mr. GORE. Has the reading of the amendment been dispensed with?

The PRESIDING OFFICER. It has been.

Mr. GORE. Mr. President, I would not like to move to a debate on this amendment. But before doing so I would like to thank the senior Senator from North Carolina for his courtesy in asking unanimous consent that the regular order of business be set aside temporarily so we might consider this amendment at this time.

This amendment is entitled "The Professionalism In Diplomacy Amendment." At the outset, I want to acknowledge that Democratic administrations and Republican administrations have both been guilty of going outside of the ranks of professional diplomats to a degree that is not wise where the Nation's interest is concerned. This amendment is not solely directed at the well-publicized practice in the current administration of making political appointments to very important foreign policy posts. I believe, however, that the degree to which political appointments are being made now is in fact unprecedented, and it is for that reason why I think the argument in favor of this amendment is far more compelling than it has ever been.

What is the national interest involved here, Mr. President? Well, to begin with, it seems obvious from the news every day that our Nation is increasingly part of an interdependent global economy. Our national interest must be pursued through the wise management of our international relations between the United States and other countries. No other country in the world uses the system of campaign contributions as the way of determining who is going to receive important ambassadorial appointments, or important appointments in the conduct of our foreign policy.

We can no longer afford to allow this practice to continue. Let me acknowledge what we all know; that is, that there have been many appointments in the past, both by Democratic Presidents and by Republican Presidents, of individuals whose most salient credentials for the post involved seemed to be political support for the incumbent, and some of those appointments have turned out to be excellent because they have done a good job.

But, Mr. President, there have also been more examples of individuals who were appointed primarily for political reasons or primarily because they made campaign contributions, and their services turned out to be disastrous.

What I am saying in this amendment is that we have reached the point where we really should not conduct our business overseas in this manner any longer. We have a body of people who have built up experience, who are knowledgeable about the various countries of the world, who are trained in the Foreign Service, and we ought to draw upon their ranks for the people who do the job they have been trained to do.

All of us have been uneasy because of a series of candidates for ambassador posts recently that made us uncomfortable. We also know that the practice of making political appointments has now penetrated very deeply into the Department of State, down even to the Deputy Assistant Secretary level.

This morning in one of the Nation's newspapers our colleague from Maryland, Senator SARBANES, was very thoughtful in his statements about this practice. And that same article discussed the example of a person who evidently went shopping around for countries where she wanted to be ambassador, and she wanted to check the school systems in different countries to see what kind of education her children would get before she decided which country she wanted to go to represent the interests of the United States of America.

Is that a way for us as a nation to decide who is going to conduct the Nation's business in whatever country she decides is suitable for her family and her lifestyle? I do not want to single this particular person out. The problem is not one of personalities.

The problem is one of political abuse. As I say, it has been bipartisan in the past. It is unprecedented today, and it should not be allowed to continue.

Political appointments among Ambassadors has fluctuated to levels as high as 40 percent. This leads to the degrading spectacle of senior Foreign Service officers walking the halls of the Department without any assignments whatsoever. It leads to early retirement of scores of officers who have become vulnerable under the upper out principle precisely because they were the hard chargers and they reached the highest levels of merit and performance earlier in their careers only to find that somebody else had made large political contributions, and even though the other candidates for that post had absolutely no experience whatsoever either in foreign policy or in the countries involved purely for political reasons they were given preference.

It has an impact all the way down the system by retarding the ability of career diplomats to advance since the top positions are also heavily occupied by political appointees.

This amendment would allow political appointments to continue. But it would put some boundaries on the practice. It would limit the practice. As I said before, no other major power does this kind of damage to its diplomatic service. We cannot afford to any more.

Every one of us knows that the United States is now far too dependent upon the expert management of its foreign relations to water down our approach with amateurs, hacks, people who bring absolutely nothing to the job but their political ties to the President.

As I said before, some such individuals have in the past turned out to do a good job. But that has been the exception. Hard statistics about this problem are difficult to find but as best I can determine, in the ranks of the senior civil service the average level of political appointment is somewhere between 10 and 20 percent.

So to be perfectly frank, I split the difference in this amendment and picked the 15 percent upper figure for a political appointment to ambassadorial positions and to departmental positions from the level of deputy Assistant Secretary and up.

I know there is a need for Presidents to have some number of slots for persons of high ability who are also dedicated to a President's particular view of policy.

Fifteen percent of the assignments should do that. But if not the President can attest under this amendment that he or she has a candidate of extraordinary qualifications providing that the Director General of the Foreign Service also attests that the Foreign Service has absolutely no one better, or the President can simply choose that someone within that 15 percent of the pool.

I am also aware that a policy along these lines cannot be implemented overnight. Therefore, the amendment calls for the implementation by attrition over the remainder of President Bush's term.

The practice of Presidential appointments of ambassadors and high-level officials in the State Department is, of course, I say it again, of long standing,

but it is not an unlimited right by virtue of his office or the Constitution.

In principle, the Senate can modify his choices, first, by rejecting those of them that involve confirmation, and as regards the civil service, Congress long ago established limits to what had earlier been a tradition of unlimited Presidential patronage.

This is the right time for the Senate to intervene with a constructive proposal under article I, section 6, clause 18.

Let me refer one more time, Mr. President, to the precedents established with the creation of the civil service. Before we had a civil service, there was a general and prevailing opinion that the practice was of appointing to Government service only those individuals who exercised political support in the campaign of the candidate for President who was elected, appointing only those individuals to what we now call civil service appointments.

The abuse rose to a level that Democrats and Republicans agreed that it was time for reform and the civil service was established and the Congress put some boundaries around the number of political appointments that an incumbent President of either party could make in the Government's domestic service.

Now we have seen a record of abuse with respect to the diplomatic service. We have seen the damage that excessive political appointments are causing within the diplomatic service. It is time to remedy this abuse and this injustice.

I might say that many years ago the current chairman of the Senate Foreign Relations Committee and the former Republican Senator from Maryland, Senator Mac Mathias, joined forces to propose an amendment in an earlier Congress very similar to this one, and I want to acknowledge my debt to them.

I also want to acknowledge the very eloquent and persuasive leadership of the senior Senator from Maryland [Mr. SARBANES] who has raised these concerns frequently in a very eloquent way, and I have consulted with both of these Senators in the drafting of this amendment.

It is an approach that I think is justified because we have not found any other way to do it and because the record of abuse is now such that some action by the Senate is required in order to reform this practice and serve the public interest well.

Mr. President, I ask my colleagues on both sides of the aisle to support this amendment, and I will yield back my time.

Mr. President, first I ask unanimous consent that an editorial from today's Kingsport Times-News be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Kingsport Times-News, July 18, 1989]

AMBASSADORS NEED BETTER EXPERIENCE

We don't know how many current U.S. ambassadors were political science majors with extensive experiences in government and world politics prior to their appointment. But doubtless it is very few.

That's because U.S. ambassadors seldom, if ever, have been appointed on the basis of experience or ability, but on how well they have courted political favor with whoever occupies the White House. Worse, those who survive long enough to gain experience in these important posts may lose their jobs just as quickly as they got them.

For too long, being named this nation's representative to a foreign land has been a political favor granted to those who raised money for a campaign or in some manner were owed something by a new president or party in power. In the early part of this nation's history, picking ambassadors out of a hat didn't matter all that much. But the world is not what it was 200 years ago.

As Sen. Al Gore puts it: "Other nations do not undermine their national interests overseas to grant political favors or ensure loyalty to the political line of the governing party. In our country, this practice has reached the point where the foreign service is unflailing prematurely the careers of increasing numbers of its finest diplomats. We've created a game of musical chairs in which the professionals—the core of expertise and continuity modern diplomatic life demands—lose out."

It shouldn't be that way. And Sen. Gore has proposed that it not remain that way. Legislation he introduced Friday would mandate that no more than 15 percent of ambassador-level and senior state department positions could be political appointments.

Would that all appointed positions in government that are funded by taxpayers be filled on the basis of ability. But Sen. Gore knows that change comes slowly. His bill is a start to increasing the integrity of the foreign service, and this country's image overseas. It is becoming increasingly important that America be represented overseas by persons with the professionalism and expertise to properly manage the economic, military, environmental and political objectives upon which our national security depends.

Sen. Gore also urges the Senate to properly carry out its constitutional mandate and give careful consideration to appointments requiring Senate approval. Says the senator, "The Constitution did not give the Senate the power to consider and vote on such appointments in order that it be set aside as a matter of custom. We have a major responsibility to use (that authority) as often as we think necessary."

The Senate should and the practice of giving the White House carte blanche on ambassadorial appointments. Our ambassadors should be men and women of distinction and achievement and not just the rich and politically powerful.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I applaud the Senator from Tennessee for proposing his amendment. Its adoption would have a profound effect upon the morale of the Foreign Service and the officers therein.

Speaking as the only Member of this body who was a Foreign Service officer, can relate firsthand to the frustration with and the annoyance that one would feel as you work your way up the line and then when the time comes to reach a higher rank like an Ambassador—or, in the military a general or admiral—that chance at promotion is plucked away and someone is nominated who has no experience in that field at all, but who was just a rich generalist, but without real experience.

When this happens, it means that one more Foreign Service officer very often is disappointed and goes out.

We should also bear in mind that this amendment does not prevent able political appointees from serving because they are in that 15 percent of noncareer Ambassadors that we would have, which is incidentally more than any of the nations with which we negotiate and deal, of the technologically advanced nations. Most of them have virtually no political appointees but all careerists in it.

When this occurs, then you find at the conference table the load is either carried by a deputy or we get bested.

Here I am not in any way detracting from the work of some of our great Ambassadors, like Bunker, Harriman, Bruce, or Mansfield. They were all political appointees and excellent ones.

Also, I would note that the amendment that Senator Mathias and I proposed some years ago, while it was not agreed to at that time, had a positive impact in the service.

I hope very much that this amendment might be supported by my colleagues.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. PELL. I am glad to yield to the Senator from Maryland.

Mr. SARBANES. As I understand it, the distinguished Senator from Rhode Island and the former senior Senator from Maryland, Senator Mathias offered an amendment of this sort some years ago to which the distinguished Senator from Tennessee referred. Is that correct?

Mr. PELL. That is correct.

Mr. SARBANES. I join the Senator from Rhode Island in commending the very able Senator from Tennessee in offering this amendment.

While some may differ slightly on the percentage figures, I support this amendment and the figures therein because I think the current practice is so outrageous. In fact, some two-thirds of the country ambassadors which this administration has sent thus far to the Congress are political appointees, not out of the career service. The career service is being very sharply blocked

out thus far in the nominating process.

First, I think it is important to question how morale can be maintained within the career foreign service if officers see no substantial opportunity ever to move to the ambassadorial position.

Second, whereas in the past many of the political appointees have been very able and very distinguished and have served the country well, there now appears to be marked deterioration in that standard. What is now happening is that noncareer, political appointees are being named solely because of their partisan political involvement, without the other dimension of international experience and public service that in many prior instances had marked the noncareer people.

It is very important for us to sustain our career foreign service. In this respect, our practices differ markedly from those of other nations. None of them treat ambassadorial positions the way we do, because they appreciate that the selection of an ambassador is a serious proposition, and that an able ambassador can make an important difference in furthering the interests of his or her country in the capital to which he or she has been accredited. It is time for us to start thinking in those terms.

I commend the distinguished Senator from Tennessee for carrying this issue to the floor.

Mr. PELL. Mr. President, the Senator is absolutely correct in his point. Also, it is of some interest, I think, that when a man is appointed for really political reasons, as having been involved in politics, like Senator Mansfield was, he can do the job very well. But when it is based on contributions, that is not the same thing. I think many of the present ambassadors are being appointed because of their contributions, not their political skills.

I would also suggest that if we really want to reward generalists this way, or not so much generalists but contributors this way, we ought to think of making them generals or admirals, because that also is a flag rank. There is no reason in the world why a man from the outside could not come in as a general or an admiral and presumably take the skills that enabled him to pile up the normal fortune that is required to be a political appointee these days and give him flag rank. In that way, we would make less of an impact on the Foreign Service.

The PRESIDENT pro tempore. The senior Senator from North Carolina, Mr. HELMS.

Mr. HELMS. Mr. President, I thank the Chair.

I believe during the Reagan administration the number of so-called political nominations to be ambassador was something like 33 percent and thus far in the Bush administration 38 percent, and yet the Senator proposes to limit the President's constitutional authority again.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. HELMS. I will not. I beg the Senator's pardon.

AMENDMENT NO. 278 TO AMENDMENT NO. 277

(Purpose: To prevent contact with General Noriega or his representatives by American officials)

Mr. HELMS. Mr. President, I offer a second-degree amendment and ask that it be stated.

The PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 278 to amendment No. 277

At the end of the amendment, add the following:

SEC. . No funds authorized to be appropriated in this or any other act shall be made available for the purpose of initiating or conducting contacts with General Manuel Antonio Noriega except for the purpose of issuing a warrant or executing his arrest to stand trial under the terms of the indictment issued on February 5, 1988, in the United States District Court for the Southern and Central Districts of Florida on drug related charges.

Mr. HELMS. Mr. President, I thank the clerk for reading the amendment.

Mr. President, perhaps we ought to take a look at the Constitution with reference to ambassadorial appointments.

And I am not going back and analyzing the nominations by President Carter. As a matter of fact, the father of the distinguished chairman of the Foreign Relations Committee, as I understand it, was a political appointee as ambassador.

Mr. PELL. Will the Senator yield on that?

Mr. HELMS. Yes.

Mr. PELL. I point out, he may have been a political appointee a lot of years.

Mr. HELMS. There isnothing wrong with that.

Mr. PELL. But he passed the diplomatic exam originally.

Mr. HELMS. Perhaps you want to give the examination to all.

I mean no derogation of the chairman's father. I know if he was anything like his son, he was a great man. OK.

Article II, section 2 reads: "He"—meaning the President—"shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by law."

Now, the rank of ambassador is set by the Constitution. The Secretary of State and Foreign Service officers are appointed by law and are therefore lower in legal status. But I would suggest that the right of the President to appoint ambassadors cannot or certainly should not be limited by law.

I have known a lot of ambassadors. Some career diplomats are fine and some of them awful. By the same token, I suppose that Senators can find political appointments to ambassador to be good and bad, depending on their views.

But here we are going again intruding upon the constitutional authority of the President of the United States.

Mr. President, I ask for the yeas and nays on my second-degree amendment.

The PRESIDING OFFICER. Is the request for the yeas and nays seconded?

There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum and we will get a sufficient second.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I renew my call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I rise today to oppose the proposition that we should, by statute, limit the President's constitutional authority to choose those he wishes to serve as ambassadors of this country.

We may not always agree with the President's choices for these important diplomatic positions.

But such concerns do not justify this amendment to curtail the powers of Presidential appointment and impede the carefully constructed system of checks and balances of our Federal Constitution.

The framers of this Constitution worked very, very hard to ensure a separation of powers between the executive and legislative branches.

There was to be no concentration of power. Our law provides the President with the power to make ambassadorial appointments; the Senate has the authority, by virtue of the Constitution, to check the wisdom of these appointments through the so-called confirmation process.

If we so choose, we, the Senate, can reject an appointment. We are the check over the President's appointment powers. And we have used that power.

In the recent past, we have rejected certain Presidential appointments, including appointments as significant as a Cabinet Secretary and a Supreme Court Justice.

If we believe the nominee does not pass muster, we can reject that individual. Moreover, as stated in a recent Newsweek article, "The Constitution holds the Senators to no legal standards of proof in passing on Presidential appointments."

Just as the President does not have to provide a comprehensive justification for his appointment decisions, the Senate is also not required to provide explanations and evidence that merits rejection of a Presidential appointment.

I believe we should not tamper with the system of Federal Government envisioned by our Founding Fathers. Unfortunately, this amendment by my good friend from Tennessee does just that.

I fully acknowledge the critical importance of ambassadorial posts, and the significant contributions of U.S. Foreign Service Officers.

Mr. President, in a recent publication of their monthly magazine, I was quoted as saying that in my service in Government I have never noted a more dedicated group of people than our Foreign Service officers. And I believe that.

These men and women play an essential role in implementing our Nation's foreign policies, establishing good relations with countries throughout the world, and providing the expertise and insight that is important in the arena of foreign affairs.

But, having said that, there is no reason why a member of the professional foreign service would necessarily make a better ambassador than an individual with an academic, business, professional, or political background.

What about John Kenneth Galbraith? He was a great ambassador. What about DANIEL PATRICK MOYNIHAN? A great ambassador. And, of course, Mike Mansfield.

We should not use Foreign Service officers as pawns in a game to change the rules established by our country's Constitution.

I believe that we should follow the clear intent of the Founding Fathers: to evaluate each ambassadorial candidate on the merits, and confirm or reject their appointment as we see fit.

This practice satisfies the Senate's desire to see qualified people appointed to diplomatic positions without usurping the powers of the executive branch and the President.

In the Federalist Paper No. 66, Alexander Hamilton, one of the framers of the U.S. Constitution, explained why he and others who conceived the Constitution gave the President the right to appoint and the Senate the power to reject or confirm Presidential appointments.

Mr. Hamilton wrote:

It will be the office of the President to nominate, and with the advice and consent of the Senate to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice of the President.

They might even entertain a preference to some other person, at the very moment they were assenting to the one proposed, because there might be no positive ground of opposition to him; and they could not be sure, if they withheld their assent, that the subsequent nomination would fall upon their own favorite, or upon any other person in their estimation more meritorious than the one rejected.

That is only part of the quote, Mr. President, Hamilton went on to say:

Thus it could hardly happen that the majority of the Senate would feel any other complacency toward the object of an appointment than such as the appearances of merit might inspire, and the proofs of the want it destroys.

In the Federalist Paper No. 76, Hamilton expressed the belief that the requirement of Senate approval would be a salutary check on the President. This check "would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism of the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity."

Hamilton was the force behind the constitutional provisions concerning the right of the executive to nominate and the Senate to confirm.

Other framers of the Constitution—John Adams, for example—were critical of even giving the Senate confirmation powers.

In 1787, Adams wrote to Jefferson:

You are apprehensive of monarchy, I of aristocracy. I would, therefore, have given more power to the President, and less to the Senate. The nomination and appointment to all offices I would have given to the President, assisted by only a privy council of his creation; but not a vote or voice would I have given the Senate or any senator unless he were of the privy council.

Faction and distraction are the sure and certain consequences of giving to a Senate a vote on the distribution of offices.

As in many other aspects of the Constitution, the provisions in article II were the product of compromise. The view that prevailed was that of Hamilton and others, who promoted the concept of checks and balances, some thing that is built into our very framework of government.

This concept, translated into practice, has served this country well over the last two centuries.

Mr. President, the proposed amendment before us today would severely limit the President's choices by requiring that a certain percentage of ambassadors be selected from among the ranks of Foreign Service officers and limit those other appointments a President can make.

Although such a restriction does not preclude all of the President's ambassadorial appointment powers, it is certainly a step in that direction.

Once started down this path, there is no reason why we might not see another step and yet another—eventually eroding the compromise of Presidential appointment powers and Senate confirmation and rejection authority.

If we take this first step today, who is to say how many more limits the majority could force on the President tomorrow—the next day—or 5 years from now? Taken to an extreme, the President's power and flexibility could be severely limited—all to the detriment of our democratic system of checks and balances.

I can share the frustration felt by the authors of this amendment—frustration fueled by some of the appointments that have been sent to the Senate over the last few years and certainly the last few months. We are all familiar with some of the writing and commentary in the newspapers recently. After all, Democrats have not controlled the White House for a decade now, and that means we have not made any appointments. But that is not a good enough reason to usurp the President's intended appointment powers under the Constitution.

I wonder how many numbers on our side of the aisle would want these limits placed on a Democratic President. The answer, of course, now is: well, that should not matter. But it does matter. We have to be careful how we deal with the office of the Presidency and the separation of powers that were long established.

Finally, Mr. President, I am not all that impressed with the argument that President Bush should be appointing ambassadors only on the basis of foreign relations experience. Let us look at some of the appointments made by other Presidents, and today, to save time, I will limit this to the discussion of one President.

In May 1961, John Kennedy appointed a man by the name of John Badeau as Ambassador to the United Arab Republic.

Badeau was an ordained minister and religion professor with the American University at Cairo when Kennedy appointed him.

According to Kennedy's biographers:

The choice of Badeau illustrated Kennedy's desire to appoint scholars and experts as ambassadors instead of career foreign service officers and political figures. Most importantly, Badeau was well liked in Egypt. Because U.S.-Egyptian relations had been strained since the Suez crisis of 1956, Kennedy wanted to establish a friendly rela-

tionship with President Gamal Abdel Nasser, head of the most powerful state in the Arab world.

Another of Kennedy's diplomatic appointments was John Martin as Ambassador to the Dominican Republic. In the 1950's, Martin won fame as a freelance journalist writing factual crime stories.

Active as a leader in the crusade for prison reform, Martin also worked intensively in Adlai Stevenson's Presidential campaigns in 1952 and 1956, and wrote a 1952 campaign biography, "Adlai Stevenson."

Associated with John F. Kennedy as a speechwriter during the 1960 presidential campaign, Martin was later confirmed as Kennedy's Ambassador to the Dominican Republic on March 1, 1962, where he ably served.

In reviewing the ambassadorial appointments of the Kennedy and other Presidents, I have found many other nonprofessional appointees who served their country well.

I close, Mr. President, by saying the greatest flaw in this ameandment is that is is an example of trying to use a sledgehammer to drive a thumbtack.

The Senate has the right to turn down any of the President's nominees without ever being required to provide a reason. Why try to limit the President's clearly intended constitutional power of appointment for really no good reason?

If we take this step, I am convinced we will regret it. It will be bad for the country. I therefore urge my colleagues to vote against it.

The PRESIDING OFFICER. The senior Senator from Maryland.

Mr. SARBANES. Mr. President, I think it is very important to get on the record some of the statistics relating to career and political nominations that have prompted this amendment by the very able Senator from Tennessee.

What is happening now is unprecedented. We have examined the figures back to President Kennedy—that is, almost 30 years ago. I just want to go through them very quickly because I share the same sorts of frustrations that the Senator from Tennessee obviously feels, while conceding some of the points that the Senator from Nevada has made.

President Kennedy, in the first 7 months of his term, appointed 61 country ambassadors; 37 career, 24 political. That is 61 percent career, 39 percent political.

President Johnson in the first 7 months in 1965: 31 nominees; 21 career, 10 political. That is 68 percent career, 32 percent political.

President Nixon, during the first 7 months of 1969: 51 nominations, 29 career, 22 political; that is, 57 percent career, 43 percent political.

President Nixon, in the first 7 months of his next term: 30 nominations, 18 career, 12 political; 60 percent career, 40 percent political.

President Carter, for the first 7 months of his term: 55 nominations, 32 career, 23 political; 58 percent career, 42 percent political.

President Reagan, first 7 months of his first term: 38 nominations total, 23 career, 15 political; 61 percent career, 39 percent political.

President Reagan, the first 7 months of 1985: 37 nominations total; 28 career, 9 political; 76 percent career, 24 percent political.

Now, in all of those years, the career nominations were more than half in every instance. In fact, the low figure was 57 percent career nominees. They were almost three-fifths or more in every instance.

President Bush, as of today, July 18, 1989, has sent to the Senate 42 nominations of country ambassadors. Forty-two. Fourteen of them are career. Only 14 out of the 42. Twenty-one of them are strictly political. The other seven, the State Department classifies as political, although they have previously held posts in the Department. Some have previously been ambassadors but they were political appointees when the first nomination was made.

Depending on how you count them—in two strict categories or in three—either only one-third are career nominees 40 percent are career. Only 14 out of the 42 ambassadorial nominations sent by President Bush thus far in his first term are career Foreign Service officers.

This is a marked, radical change from past practice. That is what, in part, helped to prompt this amendment. There has been vast departure on the part of this administration from the pattern followed by previous administrations, Democratic and Republican alike. Kennedy, Johnson, Nixon, Carter, and Reagan all nominated considerably more than half of their country ambassadors from the career service, even during the first 7 months after their election. Now all of a sudden we have a radical departure by President Bush in terms of the career/noncareer split in the 42 country ambassadors that he has sent to the Senate thus far in his administration.

I commend the Senator from Tennessee for bringing this issue to the floor.

Mr. GORE. Will the Senator yield?

Mr. SARBANES. Certainly.

The PRESIDING OFFICER (Mr. REID). The Senator from Tennessee is recognized.

Mr. GORE. I appreciate the comments just made by the senior Senator from Maryland and I agree with him totally. We are seeing important ambassadorial positions auctioned off and the national interest suffers.

I wanted to make one other point, with the indulgence of my colleagues, and that is that the earlier statement about the constitutional provisions involved must be amended, in my view, by reference to article 1, section 8, clause 18—which gives to the Congress the power to make all laws "which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any Department or officer thereof," and then in clause 14 to make rules for the Government.

In preparing this amendment, I consulted with the American Law Division of the Library of Congress and they said that, in their opinion, the weight of the legal authority is clearly that there is not a serious constitutional question involved here. There is also the case in 1976, Buckley versus Valeo, which is known to us for other reasons because it was a case which involved political fundraising principles, but it also spoke to the underlying constitutional issues here.

Then there is the practice which has gone on at least since the Madison administration when the Congress set terms and rules governing the diplomatic service. Let me quote from an opinion by Justice Brandeis in Myers versus United States case:

> The assertion that the mere grant by the Constitution of executive power confers upon the President as a prerogative the unrestricted power of appointment and of removal from executive offices, except so far as otherwise expressly provided by the Constitution, is clearly inconsistent also with those statutes which restrict the exercise by the President of the power of nomination. There is not a word in the Constitution which in terms authorizes Congress to limit the President's freedom of choice in making nominations for executive offices. It is to appointment as distinguished from nomination that the Constitution imposes in terms the requirement of Senatorial consent. But a multitude of laws have been enacted which limit the President's power to make nominations, and which, through the restrictions imposed, may prevent the selection of the person deemed by him best fitted. Such restriction upon the power to nominate has been exercised by Congress continuously since the foundation of the Government. Every President has approved one or more of such acts. Every President has consistently observed them. This is true of those offices to which he makes appointments without the advice and consent of the Senate as well as of those for which its consent is required.
>
> Thus, Congress has, from time to time, restricted the President's selection by the requirement of citizenship. It has limited the power of nomination by providing that the office may be held only by a resident of the United States; of a State; of a particular State; of a particular district; of a particular territory. It has limited the power of nomination further by prescribing specific professional attainments, or occupational experience.

And it goes on and on quite extensively listing all of the statutes that have been enacted by the Congress and approved by the President, which are exactly like the pending amendment, which would, in responding to the record of abuse, so well described by the Senator from Maryland, put this Senate in the position of correcting a problem that threatens our national interest. I thank my colleague for yielding at length.

Mr. SARBANES. Mr. President, I simply want to close with this quotation from Hamilton. The very able Senator from Nevada in the course of his exposition made reference to Federalist Papers and Hamilton and the fact that one of the issues at the constitutional convention was whether the President should have the sole power to make appointments. In fact, some argued that Presidential appointments should be subjected to some screening requiring a concurrence on the part of the legislative branch, and in particular on the part of the Senate. Hamiltion says in Federalist No. 76:

To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity. And, in addition to this, it would be an efficacious source of stability in the administration.

It will readily be comprehended that a man who had himself the sole disposition of offices would be governed much more by his private inclinations and interests than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism or an unbecoming pursuit of popularity to the observation of a body whose opinion would have great weight in forming that of the public could not fail to operate as a barrier to the one and to the other. He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure.

Mr. President, this is a strong statement by Alexander Hamilton. What has happened here is that we, in effect, have been driven to this recourse of trying to insist on career appointees by the gross disproportion of career and political appointees to which I previously alluded.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays on the amendment of the distinguished Senator from Tennessee.

The PRESIDING OFFICER. It would take unanimous consent to request the yeas and nays.

Mr. HELMS. I ask unanimous consent it be in order for me to request the yeas and nays.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. President, suppose we discuss what is in the amendment to be voted on; that is, my second-degree amendment to the amendment of the distinguished Senator from Tennessee. This amendment would prohibit the use of funds for the purpose of initiating contacts or conducting negotiations with Noriega. This amendment would allow only funds to be used to make contact with Noriega for only one reason, one purpose, that being to issue a warrant or execute the arrest of Mr. Noriega to stand trial under the terms of his indictments in U.S. Federal court.

Mr. President, I had been under the impression that the U.S. Government officials were no longer in communication with Mr. Noriega, but it just goes to show how wrong you can be around this place. The United States does not recognize the illegitimate regime of Noriega, and it had been my understanding that all contact with Noriega was discontinued after the administration negotiated unsuccessfully with him in May 1988.

Last week, I received some very surprising information. Surprising is not strong enough. It is appalling. I did not believe at first what I was told, so I began to check and check and check and, lo and behold, I found out the information was correct. I have now confirmed it with numerous sources in this city, including at least one in the White House.

Mr. President, what do you know, Mr. Stephen Dachi, the Acting Ambassador from the United States to the Organization of American States, has requested to meet with Mr. Noriega. Mr. Dachi apparently passed his request through Noriega's representative at the OAS, so, obviously, career ambassadors, like all the rest of us, make mistakes.

Let me tell you about Mr. Noriega's man at the OAS. His name is Carlos Russell, and he is a U.S. resident. And who is Mr. Russell?

He just happens to be Idi Amin's former lobbyist in this city. He is known to have a picture in his home of himself embracing Idi Amin. I can only comment he has very poor taste in the people he hugs. Furthermore, Mr. Russell is just about as anti-American as they come.

Now, I just cannot understand why an American, let alone an official of the U.S. Government, a career employee, if you please, would have any desire to consort with a man like this Carlos Russell.

According to information that I have acquired—and I have no doubt about its authenticity—Mr. Dachi, this career employee of the State Department, asked Mr. Russell, Idi Amin's former lobbyist, to arrange for him a meeting with Noriega. Russell in turn asked Noriega to grant Dachi an audience. Noriega has accepted the invitation, obviously, with pleasure. Apparently they are in the process of working out arrangements for this little get-together.

Mr. President, this meeting is not going to take place if I have anything to do with it. Hence the amendment now pending.

I do not know Mr. Dachi, and I do not particularly want to meet him, judging by his judgment, but I understand that he has been with OAS for just a couple of weeks. Perhaps he ought to have stayed in his last post, São Paulo, Brazil, or perhaps we ought to send him back there, give him a one-way ticket, unless, Mr. President, he was acting on orders from higher authority. I do not suggest that that is the case. I believe to the contrary. But you never know in this town who is doing what to whom.

In any case, Mr. President, Mr. Noriega, sitting down there smiling, convinced that he is dealing with a bunch of boobs in the United States, is milking his connection with a U.S. employee at the OAS for all its worth. This past weekend Mr. Noriega sent his cronies to talk to opposition leaders, and the opposition leaders mistakenly believed they were meeting to negotiate Mr. Noriega's departure from Panama. But Noriega's representatives said that they had no intention of discussing Noriega's departure inasmuch as Noriega had established his own channels within and with the U.S. Government to discuss, what do you know, dropping his indictments. Noriega, of course, is referring to the invitation that he received from this Mr. Dachi, who is acting Ambassador from the United States to the Organization of American States.

Mr. President, this contact by Mr. Dachi was totally unauthorized, I hope. Nevertheless, it had the effect of torpedoing U.S. policy and giving false encouragement to Noriega. It has in fact encouraged Noriega to be more adamant. So I consider this to be a diplomatic blunder of colossal magnitude.

What has President Bush said about this sort of thing? He has said on numerous occasions that it is U.S. policy

to have no dealings with Noriega. In fact, last year the Congress stated in a resolution that "the United States should not conduct or authorize any negotiations or discussions with Noriega."

That resolution went on to say that any such negotiations "would be incompatible with the high priority that the U.S. places on the war on drugs, would not further the prospects for restoring a noncorrupt government in the Republic of Panama, and would not serve the interests of the United States."

What the Congress said then is correct today. That was a sense-of-the-Senate resolution that was, therefore, nonbinding. However, if low and middle level bureaucrats are going to initiate their own contact with Noriega and implement their own policy, then the Senate should and must act now to cut off funds for this sort of insanity.

Mr. President, I am ready to vote on my amendment if the distinguished chairman of the committee has no further discussion of it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. PELL. Mr. President, what this amendment of the Senator from North Carolina would do is prevent certain actions that might well be in the national interest. For example, taking a phone call from Noriega regarding a terrorist threat against the U.S. Embassy would be prohibited if this amendment was law. Or any discussions with Noriega about unconditionally resigning his position and leaving Panama—those conversations would not be possible under this amendment, or receiving a nomination of a Panamanian to head the Panama Canal as provided for by the canal treaty would also be prohibited if this amendment passed. No one likes Noriega, no one wants to deal with him and contact should be avoided to the extent possible. But to have a blanket prohibition on the President of the United States would be, under some circumstances, to cut off our nose to spite our face.

I believe that when you weigh the advantages of this amendment and the disadvantages that it would be more in the national interest if this amendment was not law.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the distinguished chairman of the Foreign Relations Committee knows of my respect for him. Sometimes we have to agree to disagree agreeably and this is one of those times. Contrary to what the distinguished Senator said, this amendment does not prevent U.S. officials from talking to others in Noriega's circle. It merely prohibits funds being used to contact directly Mr. Noriega himself.

Furthermore, the attempt by the United States employee at the OAS to meet with Noriega was unauthorized, and it has clearly set back United States policy with respect to Panama. Mr. Noriega has used this contact to stall for time, and we played right into his hand. A message ought to be sent by this Senate to the State Department and all others concerned that this is not to be tolerated.

If this is interpreted as micromanagement, so be it. But this contact by this man, the acting Ambassador from the United States to the Organization of American States, was totally unauthorized. It was awful judgment. It must not be repeated.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. KERRY. Mr. President, I just have looked at a copy of the amendment of the distinguished Senator from North Carolina, and he and I, and I noticed the Senator from New York is on the floor, have worked very closely on this issue over a period of time.

This is the first time I have had a chance to read the amendment, but I am somewhat concerned that there is a departure between this amendment which the distinguished Senator has presented us with this year and the amendment that we passed last year which I and others were supportive of.

First of all, let me just say that on the issue of Panama and the question of our dealings with General Noriega, I do not think the Senator will find any argument from the Senator from Massachusetts or from most of the members of the Foreign Relations Committee that this has been a travesty in the handling of American foreign policy. It is really one of the saddest chapters that I can think of historically and certainly in the last quarter-century of our dealings with a country in this hemisphere.

When you think of the arguments that have centered around Cuba and what was referred to for many years as the loss of Cuba and the impact that that has had on the politics of this country and the implications that it has over a long period of time, here we have really what has to be referred to as another Cuba in the same context which has come about because of the unwillingness of the American officials to really face up to the choices that we ought to be making.

In the past, Assistant Secretaries and Deputy Secretaries of State have been designated and have had an enormous impact on our affairs.

I recall, because I was deeply involved in the Philippines, that Assistant Secretary Paul Wolfowitz played a significant role; in the Middle East Dick Murphy, whom we all came to know and appreciate for his hard efforts, played a significant role.

Many of us disagreed with the role played by Elliott Abrams, but he played a significant role.

Here we have no identifiable individual whatsoever who is moving policy in this region, and notwithstanding all of the hullabaloo that surrounded General Noriega only a few weeks and months ago during the election, it has now disappeared from any burner, let alone the front burner, of foreign policy, and we have seen a whole opposition disintegrate with the lack of American strategy and the lack of willingness to go forward with that strategy.

So I share the desire of the Senator from North Carolina to try to proceed with the policy in Panama. However, I think the amendment as currently constructed works at cross-purposes with our desires to do so.

Last year, we passed a sense-of-Congress amendment that said that the United States should not conduct or authorize any negotiations and should not make any arrangements with General Noriega which would involve an effort by the United States to dismiss the indictments.

Now, the distinguished Senator who is no longer on the floor at this moment said to me, reading the first part of that sentence, that this amendment he seeks to have adopted this year does nothing different. I differ with him. I think it does something considerably different and very damaging to any efforts that may or may not exist or that might exist in the future with respect to our efforts to try to dislodge General Noriega.

There is in a sense a no severability clause in the amendment as passed last year so that in effect all that we did last year was say you cannot negotiate or make a deal that drops the indictments. That was last year's sentiment.

This year, the Senator from North Carolina is attempting to pass an amendment that would say that no funds appropriated or authorized in this act can be spent with respect to any contacts with General Noriega

except the Federal marshals going in to move him out.

I support and understand why the Senator wants to get him out, and I understand that he wants the Federal marshals to go in and get him out.

It would be, No. 1, I think unconstitutional for the Senate to pass a law prohibiting any funds or expenditures in this act from being used for any kind of contact, because that would be an enormous usurpation of the available power of the President to conduct the affairs of foreign policy.

No. 2, do we really want to do that? Do we want to restrict any kind of expenditure whatsoever that might bring us to the point where you have a negotiation through a contact with General Noriega that he might leave office.

I would respectfully suggest that to pass that kind of absolute general prohibition would be a grave mistake, would tie the hands of the administration and the Congress, would limit us in whatever prospects we may have down the road to hopefully negotiate something, and I do not think really accomplishes the purposes that the Senator wants to accomplish here if I read them correctly.

I would be delighted to try to sit with the Senator and see if we could not find language that more appropriately does accomplish what he sets out to do.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like and hope that the Senate could come to a resolution that would send a very clear signal to Manuel Noriega and to his henchmen that we are not condoning and we are not loaning any kind of support to him in any way and that indeed we are not going to conduct business with him.

I think that is absolutely paramount, and I believe that is what Senator HELMS in offering this amendment was attempting to put into action.

I would hope we could come to an accommodation because I am deeply troubled when I read that the acting minister for OAS, our representative for the OAS, is conducting negotiations with an individual by the name of Carlos Russell who formerly represented Idi Amin—incredible, incredible, and, Mr. President, it sends the wrong message because while at one hand the oppostion to Noriega comes forward in good faith to bargain with him, we send out a message with the other hand that says you do not have to because the United States is doing that.

And, therefore, they are treated in a cavalier manner, dismissed. Once again, we sent Noriega a signal that the right hand does not know what the left hand is doing. Absolutely wrong; the wrong message.

So I hope that particularly those among us who almost unanimously have come together in declaring Noriega the outlaw that he is, Noriega the ruler who rules by way of force, who has no support in the Congress of the United States, that we should and could and must fashion a legislative proposal that states very clearly that the United States does not recognize him in any way as the legitimate representative of the people, and that we will assist those people who are fighting for freedom and who seek freedom in Panama.

I believe that it is important that the administration understands that it cannot continue to say one thing and do another. I hope that the U.S. alternate representative to the Organization of American States undertook this initiative to meet with Noriega's representative and to set up a meeting with Noriega on his own, without approval from higher authority.

I would feel very, very disappointed indeed, if at the same time when we are attempting to demonstrate to Noriega and to the world that we stand with the forces of freedom, that we are still undertaking the kinds of activities that sent out a message and the wrong signal that we are willing, yes, to negotiate with Noriega.

I find it offensive. I think it is the wrong kind of message to send. I believe that it is important that we, the U.S. Senate, appear steadfast and united in our opposition to this tyrant. It is counterproductive to have a policy that is stated on one hand and the kind of activity that has been reported to us on the other hand. And it will inure to the benefit of only one person, Manuel Noriega and his drug cartel.

Mr. KERRY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask the pending amendment and all amendments behind it be laid aside temporarily.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from West Virginia is recognized.

AMENDMENT NO. 279

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. DECONCINI, and Mr. GORE, proposes an amendment numbered 279.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

Condemning the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria, and authorizing assistance for the relief of Turkish refugees fleeing Bulgaria.

(a) FINDINGS.—The Congress finds that—

(1) The Government of the People's Republic of Bulgaria is a signatory to the 1947 Paris Peace Treaty, the Universal Declaration on Human Rights by the United Nations, and the Helsinki Declaration of the Conference on Security and Cooperation in Europe;

(2) The Helsinki Accords express the commitment of the participating states to respect the fundamental freedoms of conscience, religion, expression, and emigration, and to guarantee the rights of minorities;

(3) The 1971 Constitution of the People's Republic of Bulgaria declares that fundamental rights will not be restricted because of distinction of national origin, race, or religion, and guarantees minorities the rights of study in their mother tongue and freely practice their religion;

(4) Despite its international obligations and constitutional guarantees, the Government of the People's Republic of Bulgaria has taken numerous steps to repress Turkish language and culture, including prohibiting the study of the Turkish language in schools, banning the use of the Turkish language in public, making the receipt and reading of Turkish publications a punishable act, and jamming the reception of Turkish radio and television, programs and Bulgaria;

(5) The right of the ethnic Turkish community to freedom of religion has been severely circumscribed by the Government of the People's Republic of Bulgaria, which has closed a number of mosques and barred the importation of copies of the Koran;

(6) Emigration by ethnic Turks and others has been banned with only a few exceptions;

(7) Beginning in December 1984, the Bulgarian authorities forced the Turkish minority to change their Turkish names to Bulgarian ones, and hundreds of ethnic Turks were killed, injured, or arrested by Bulgarian forces in 1984 and 1985 when they protested this new policy;

(8) The Bulgarian authorities have used both force and coercion to resettle ethnic Turks from their local villages to areas in Bulgaria with small Turkish populations;

(9) In May 1989, Bulgarian troops and police attacked ethnic Turks and others who were peacefully demonstrating against their discriminatory treatment in Bulgaria;

(10) Hundreds of demonstrators were killed or wounded in these attacks, and hundreds more were arrested; and

(11) Since these demonstrations, the Government of the People's Republic of Bulgaria has forcibly expelled or coerced into emigrating to Turkey thousands of ethnic Turks without either their money or their possessions, often resulting in the separation of families.

(b) POLICY.—It is the sense of the Congress that the Congress—

(1) strongly condemns the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria;

(2) calls upon the Bulgarian authorities to immediately cease all discriminatory practices against this community and to release all ethnic Turks and others currently imprisoned because of their participation in nonviolent political acts;

(3) calls upon the Bulgarian Government to honor its obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely; and

(4) urges the President and Secretary of State to make strong diplomatic representations to Bulgaria protesting its discriminatory treatment of its Turkish minority and to raise this issue in all appropriate international forums, including the Conference on Security and Cooperation in Europe meeting on the environment in Sofia, Bulgaria, this year.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of State, $10 million for purposes of section 2(c) of the Migration and Refugee Assistance Act of 1962, to the Republic of Turkey for assistance for shelter, food and other basic needs to ethnic Turkish refugees fleeing the People's Republic of Bulgaria and resettling on the sovereign territory of Turkey.

Mr. BYRD. Mr. President, I have discussed this amendment with the managers and I hope that they will be willing to accept it. I am pleased to offer it on behalf of my distinguished colleague from Arizona and myself. It condemns Bulgaria's treatment of its ethnic Turkish minority and calls on the Bulgarian authorities to cease immediately the shameful persecution and deportation of these Bulgarian citizens. Further, it authorizes $10 million in funds for fiscal year 1990 for the assistance of ethnic Turks who have fled Bulgaria and are resettling in the sovereign territory of Turkey.

I have spoken before on this issue here on the Senate floor. When I made that statement, on June 23, 1989, it was apparent that Bulgaria's long-standing draconian policy of forced assimilation of its ethnic Turkish minority had drastically escalated into a policy of expelling its Turkish citizens across the border into Turkey. At the time I made that statement, the estimates of the numbers of ethnic Turks expelled across the border ranged from 30,000 to 45,000.

Today, only 3 weeks after I made that speech, those estimates are 130,000 to 140,000. In only 3 weeks, Bulgaria has forcibly sent 100,000 of its citizens out of their homes, out of their jobs, away from their relatives, property, and bank accounts, into a neighboring country which has accepted them with outstretched arms.

The burden this has placed on Turkey is enormous. In the past year, Turkey has had to accept two massive streams of refugees—the Kurds who fled from Iraq's use of chemical weapons against them late last summer and now these Bulgarian ethnic Turks.

When will this exodus from Bulgaria end? Reportedly, Bulgaria has issued passports for 300,000 of its ethnic Turkish citizens. Turkey's Prime Minister Ozal has said that Turkey will take all the Bulgarian Turks who cross the border—but at what cost to Turkey?

I thank my distinguished colleague, Mr. DECONCINI, for proposing an amendment on this subject. It is necessary to focus the Senate's attention, and the U.S. Government's attention, on this deplorable matter.

I have added to Senator DECONCINI's original legislation on authorization for assistance to Turkey to help meet the human needs of the refugees.

Turkey needs help handling this massive influx of refugees. Its most urgent need is for housing. Many of these refugees from Bulgaria are temporarily housed in tents right on the Turkish side of the border. Once the summer ends, some other form of housing will have to be found for these people.

It is my understanding that a bipartisan group of House members has written to the administration and has suggested that $5 million in fiscal year 1989 foreign aid funds to Somalia, which apparently will not be obligated, should be reprogrammed for use by Turkey to resettle the ethnic Turks. I understand the administration is considering that request.

I would like to encourage the administration to act now favorably on that request. If the funds for Somalia are not available, I hope the administration can find some other way or some other funds to assist Turkey. I believe the United States should make every effort to assist this NATO partner, Turkey in its costly effort to absorb the ethnic Turks who are being expelled from Bulgaria.

For fiscal year 1990, this amendment provides $10 million for feeding, clothing, and sheltering the ethnic Turks expelled from Bulgaria. Although this is not enough to care for all the Turks who might flee Bulgaria, I hope this amendment will help to dissuade the Bulgarian Government from continuing its draconian forced assimilation policy before it burdens the Turkish people with any further refugees.

As a July 1 editorial in the Washington Post noted, the human tragedy in a remote corner of Europe has been ignored by most of the world, or categorized as "Balkan," a patronizing metaphor for that which is unmodern and unworthy of serious attention. Events in Bulgaria have come to a head at the same time as the tragedy in China, to which the entire world has paid extensive, televised attention. This has meant that Bulgaria has gotten somewhat of a free ride. The Bulgarian expulsion of its Turkish minority is an appalling violation of the norms of civilized behavior. It is time the world calls Bulgaria to account for this shameful persecution.

The editorial in the Washington Post reads as follows:

BULGARIA AND THE TURKS

In a letter last Saturday, the ambassador of Bulgaria had his say on the matter of the tens of thousands of people from his country who have been streaming across the border into Turkey. According to Ambassador Velichko Velichkov, Bulgaria, acting in the spirit of renewal and restructuring, has granted "Bulgarian Moslems" a full and generous right to travel abroad. The reason that Turkey describes the traffic as expulsion and deportation, he explains, is its own "Pan-Turkish imperial ambitions." This is his way to "set the record straight."

In fact, this is not one of those disputes where the truth lies somewhere in between. The Turks have a serious complaint. The Bulgarians are acting arbitrarily, cruelly and in a way that mocks their efforts otherwise to let in a little light. The ambassador grossly distorts the truth. What is going on is one of the major human rights outrages of the decade.

About five years ago, Communist Bulgaria stepped up an old campaign to assimilate the ethnic Turkisn tenth of the population left over from five centuries of Ottoman rule: banning observance of Moslem customs and use of the Turkish language, requiring people who regard themselves as ethnic Turks (not as "Bulgarian Moslems") to take Bulgarian names and so on. The Turks of Turkey do not have strong human rights credentials in the West or a strong community of kin in the United States, and their appeals for the Turks of Bulgaria did not carry far. Most people, if they paid attention at all, filed Turkey's appeals under "Balkan"—which can be a patronizing metaphor for tribal, unmodern, unworthy of others' serious attention.

More recently, the stream of "tourists," as Bulgaria perversely calls them, tumbling, fleeing and being thrown into Turkey has gotten so large and pitiable as to be impossible for others to ignore. This is the basis of the international protests now mounting against Bulgaria's policy of forcible cultural and communal assimilation—a policy that has meant loss of property and livelihood for many of its victims and torture and loss of life for some.

This human tragedy in a remote corner of Europe has come to a head while most of the world was following the grander, more thoroughly televised events in China. In that sense Bulgaria has gotten something of a free ride. It deserves to be called to account for its appalling and shameful persecution of its Turkish citizens.

Mr. DECONCINI. Mr. President, as Chairman of the Commission on Security and Cooperation in Europe, I am proposing with Senator BYRD an amendment to the State Department authorization bill (S. 1160) condemning Bulgaria's treatment of its ethnic Turkish minority, which accounts for over 10 percent of the population in Bulgaria. This amendment includes language which is identical to Senate Concurrent Resolution 46, which I submitted on June 15. It calls upon the Bulgarian authorities to immedi-

ately cease all discriminatory practices against its Turkish minority and to honor its international obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely. The amendment also urges the administration to raise these issues at all appropriate international fora, including the Conference on Security and Cooperation in Europe [CSCE] meeting on the environment scheduled to take place in October in Sofia, Bulgaria.

In late May, we began to receive numerous reports of peaceful demonstrations protesting the Bulgarian Government's policy of forced assimilation of the Turkish minority. This policy began in the 1950's with the closing of Turkish schools and mosques. In late 1984, this campaign intensified when the regime compelled over 1 million members of the Turkish minority, sometimes by force, to change their names. At the same time, the Bulgarian Government insisted that there was no ethnic Turkish minority in Bulgaria claiming that ethnic Turks were in reality Bulgarians who had been forcibly Islamicized under Ottoman rule. To this day, the regime continues to have the audacity to claim that these 1 million people changed their names voluntarily within a 3-month period.

Since 1984, the Bulgarian Government has continued to suppress Turkish culture and identity. Public use of the Turkish language is forbidden and punishable by fines; the receipt and reading of Turkish publications are also prohibited and jamming of Turkish TV and radio programs continues. Bulgarian authorities even forbid the wearing of traditional Turkish clothes.

The Government also continues to suppress Bulgarian Muslims, the majority of whom are ethnic Turks whose culture is intertwined with Islam. Most of Bulgaria's mosques have been closed, observance of Muslim holidays discouraged, and Muslim rites such as weddings, burials, and circumcisions are restricted or prohibited. Religious education of children is not allowed, and the Koran is not published nor can it be legally imported. These repressive measures represent flagrant violations of Bulgaria's commitments under the Helsinki Final Act, Madrid Concluding Document and the recently concluded Vienna Document.

Mr. President, the May demonstrations, which resulted in the deaths and injuries of hundreds and the arrests of numerous others, and the subsequent exodus of over 100,000 ethnic Turks to date are the direct result of the Bulgarian Government's attempts to eradicate Turkish identity. We are now learning that these demonstrations were more widespread than initially thought, involving hundreds of thousands of people. It is important to note that ethnic Turkish efforts to assert their legitimate rights are also supported by ethnic Bulgarians, particularly members of Bulgaria's Independent Association for the Defense of Human Rights and the independent trade union "Podkrepa." Indeed, in addition to ethnic Turks, Bulgarian human rights activists such as Konstantin Trenchev and Nikolai Kolev are still being detained for supporting the legitimate aspirations of the repressed Turkish minority. In late May, in the face of these widespread protests, often quashed through violent means, the Bulgarian Government began to deport thousands of ethnic Turks, some after only a few hours notice. Ethnic Turkish refugees now in Turkey report abandoning houses, apartments, domestic animals and cars in Bulgaria; still others report they had been separated from family.

The sudden and unanticipated influx of hundreds of thousands of ethnic Turks has placed a tremendous burden on Turkey. This amendment authorizes financial assistance in the amount of $10 million to the Republic of Turkey for assistance for shelter, food, and other basic needs to ethnic Turks fleeing Bulgaria.

The demonstrations and expulsions, the direct result of the forcible assimilation campaign, represent a refusal by the Bulgarian Government to implement the obligations entered into voluntarily in Helsinki in 1975 and in Vienna earlier this year. They are particularly evident against the backdrop of improvements in human rights compliance in some parts of Eastern Europe. The issue of the brutal treatment of the Turkish minority in Bulgaria was a subject raised by many delegations, including our own, at the recently concluded Paris meeting of the CSCE Conference on the Human Dimension. It is a subject that we must continue to raise to make absolutely certain that the Bulgarian Government recognizes that its persecution of the Turkish minority will not be tolerated. We need to become more forceful in expressing our outrage over recent events in Bulgaria. I hope that this amendment will send a loud and clear message to the Bulgarian Government as well as concretely assist these displaced Turkish refugees.

Mr. BYRD. Mr. President, I ask unanimous consent that the names of Messrs. SARBANES and LUGAR be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I would like to congratulate the distinguished Senator from West Virginia on his amendment. I ask unanimous consent I be added as a cosponsor.

Mr. BYRD. Mr. President, I thank the distinguished Senator and I ask unanimous consent that his distinguished name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And I also ask unanimous consent that Mr. BENTSEN's name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment offered by the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I fully support this amendment. The Government of Bulgaria has long practiced a cruel policy of forced assimilation of its minority Turkish population. Indeed, the Bulgarian Government has long maintained an official lie—it has told the world that there is no such thing as a distinct ethnic minority in Bulgaria. Instead, it pretends that ethnic Turks are really Bulgarians who were compelled to convert to Islam under Ottoman rule.

That official lie, which began as early as the 1950's, intensified in 1984 when the regime forced over 1 million members of the Turkish minority to change their names. As part of its forced assimilation campaign, the Bulgarian Government has also outlawed the public use of the Turkish language and banned Turkish publications.

In May, the Turkish minority launched a series of demonstrations against this inhuman policy. The Bulgarian Government responded with a violent crackdown of killings and beatings. As a result, there has been an exodus of over 100,000 ethnic Turks from Bulgaria to Turkey.

This amendment helps to expose the official lie which the Bulgarian Government has for so long tried to hide behind and it sends a clear signal that the world will not be silent in the face of Bulgaria's brutal violation of human rights.

Mr. BYRD. I want to thank the distinguished manager of the bill for his very supportive statement. I am sure that statement is welcomed in all areas of the country and in the world where people prize freedom and decency.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amend-

ment offered by the Senator from West Virginia.

Mr. BYRD. Mr. President, if the Chair will withhold momentarily, it may be that we can dispense of another matter before we do that rollcall.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 278, AS MODIFIED, TO AMENDMENT NO. 277

Mr. HELMS. Mr. President, I ask that it be in order, notwithstanding the fact that the yeas and nays have been ordered on the second-degree amendment to the underlying amendment of the Senator from Tennessee, that it be in order for me to modify the amendment, by agreement on both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. I send to the desk the modification to the amendment, and I thank the Chair.

The amendment (No. 278), as modified, is as follows:

At the end of the amendment bill, add the following:

SEC. . No funds authorized to be appropriated in this or any other act shall be made available for the purpose of initiating or conducting contacts with General Manual Antonio Noriega except for the purpose of issuing a warrant or executing his arrest to stand trial under the terms of the indictment issued on February 5, 1988, in the United States District Court for the Southern and Central Districts of Florida on drug related charges, unless the President determines and certifies to Congress that the contacts are intended to result in the departure of Noriega from power.

Mr. HELMS. The yeas and nays are still ordered on the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the name of Mr. STEVENS be added to the amendment on which a rollcall vote will occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from West Virginia. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is absent because of illness.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—99

Adams	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	McCain	Wirth

NAYS—0

NOT VOTING—1

Matsunaga

So the amendment (No. 279) was agreed to.

Mr. BYRD. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Madam President, I ask unanimous consent that the vote——

Mr. HELMS. Madam President, the Senate is not in order.

The PRESIDING OFFICER. The Senator from North Carolina is right. The Senate is not in order. I am going to ask first the pages to sit down and then I am going to ask the Senate to follow the example of the pages.

Could we sit down, please? Could we take our seats? Could we take our seats?

Now, the majority leader was asking unanimous consent.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that the votes on the Helms second-degree amendment and the Gore first-degree amendment occur immediately without intervening debate or action and that the vote on the Helms amendment be a 15-minute vote and that the vote on the Gore amendment be followed immediately without intervening debate or action and be a 10-minute vote.

Mr. DANFORTH. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Madam President, parliamentary inquiry. I will direct the inquiry to the Senator from North Carolina.

Is the Helms amendment the Noriega amendment?

Mr. HELMS. The Senator is correct.

Mr. DANFORTH. Reluctantly, Madam President, I would have to object. I would like to debate that for at least a few minutes, say, maybe 10 minutes or so, if you would like an agreement on this.

Mr. MITCHELL. Madam President, I ask unanimous consent that there now be a period of 20 minutes of debate on the Helms second-degree amendment, equally divided, under the control of Senator HELMS or his designee in behalf of the amendment and Senator PELL or his designee in opposition to the amendment; that upon the completion of that debate or the yielding back of time, the vote on the Helms amendment occur without any further debate or intervening action; that upon the disposition of the Helms amendment, the Senate, without any intervening debate or action, vote on the Gore first-degree amendment; and that the vote on the Gore amendment be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, and I shall not object, if the Chair will bear with me for just 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Just 1 minute.

Mr. MITCHELL. Does the Senator from North Carolina reserve his right to object?

Mr. HELMS. I reserve my right to object, and did.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the majority leader's request?

Without objection, the majority leader's request is agreed to.

Who yields time on the amendment?

Mr. DANFORTH. Madam President, may we have order in the Senate before we start the time rolling?

The PRESIDING OFFICER. The Senator is correct. Those Senators standing and engaging in conversations, please withhold and other Senators take their seats.

The Senator from Missouri.

Mr. DANFORTH. Madam President, there still is not order in the Senate.

The PRESIDING OFFICER. The Senator from Missouri has asked the Senators standing to please sit down.

Mr. DANFORTH. Madam President, I thank the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Missouri?

Mr. PELL. Madam President, I was designated by the majority leader to control the time. Since I will be in support of the Senator's amendment, I have yielded my 10 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri now controls time in opposition to the amendment.

Mr. DANFORTH. Madam President, I thank the Chair.

Madam President, I use this opportunity to point out what Senator BOREN and I have been pointing out in the past, and that is the pitfalls of the Congress of the United States, particularly by floor amendments, determining the precise details for the conduct of foreign policy and thereby restricting this administration or any other administration in the appropriate utilization of the executive's function in the conduct of foreign policy.

Madam President, nobody likes General Noriega. If we had a vote on the floor of the Senate about whether or not Noriega is a good person, whether we should be supportive of General Noriega, whether we like General Noriega, whether we want him to be retained in power in Panama, 100 Members of the Senate would vote against General Noriega.

But that is not precisely what we are about to vote on. What we are about to vote on is whether the President of the United States or anyone else in the Government can have any contacts at all for any reason with General Noriega with the two exceptions of arranging for his arrest or resulting in his departure from power.

I would like to see General Noriega arrested. I would like to see him put in prison and throw away the key. And I certainly would like to see him removed from power.

But the question is whether the Congress of the United States is overdoing it when we put in State Department authorization bills detailed restrictions on who can be contacted by whom in the ordinary conduct of the foreign policy of the United States.

That is the only point that I am making, Madam President. I think that it weakens the position of the United States for Congress forever to be mucking around in the conduct of foreign policy in floor amendments. I think that it creates a weak President, a weak Executive, for the Congress of the United States to limit, prohibit, even discussions by the executive branch, even with people we do not like very much. When you think about it, many, many negotiations in foreign policy are between representatives of the United States and people we absolutely abhor. That is the sole point that I would like to make to the Senate today.

I take it that in this vote it will be about 99 to 1 in favor of the Helms amendment. But I for one simply wanted to make the point, as I have done in the past, that it does not serve the interests of the United States and it does not serve the interests of the foreign policy of this country for us to be putting these kinds of restraints on the executive in even initiating or making contact with various officials around the world.

Mr. MITCHELL. Madam President, will the Senator yield to me for 2 minutes?

Mr. DANFORTH. Yes.

Mr. MITCHELL. Madam President, we just had a vote on the Moynihan amendment. The principal argument against the Moynihan amendment was advanced by the distinguished Senator from North Carolina, who characterized it as an impermissible intrusion upon the authority of the President. He told us yesterday and he told us today we should not be telling the President what to do, what not to do; what to say, what not to say.

Now here comes the Senator from North Carolina with an amendment that not only tells the President who he can or cannot talk to, but tells the President what he can or cannot say.

As I read this amendment, if the President talks to General Noriega or anyone else for the purpose of issuing a warrant for his arrest or to result in his departure from power, he may do so. But on any other subject, the President is precluded from doing so.

This does it by means of cutting off the funds. But if I may ask my distinguished colleague, the author of this amendment, when it says "no funds authorized," does that include payment for a Government vehicle to transport a Government official to a meeting for this purpose, say, in an aircraft or an automobile?

Mr. HELMS. Madam President, this question cannot be answered yes or no. I will answer him in some detail.

Mr. MITCHELL. All right. Perhaps the Senator could do it on his time, then.

Mr. HELMS. That is exactly right. There is no inconsistency whatsoever. I am just a lonely, obscure, nonlawyer Senator. But this amendment is clear, the Moynihan amendment was clear, and they are different; as different as night and day.

Mr. MITCHELL. The Senator may be lonely and a nonlawyer, but he is not obscure.

Mr. HELMS. I thank the Senator.

Mr. MITCHELL. I merely point out that under this amendment, a Government official could not make a telephone call, could not ride in a car, could not ride in an airplane—including the President, could not use any Government funds unless it were for a particular purpose specified in the amendment.

Mr. HELMS. Will the Senator yield?

Mr. MITCHELL. Rarely—if I may just finish—rarely have I seen, scarcely can any Senator imagine a greater intrusion upon the authority of the President than for the Senate to tell him, not only to whom he can or cannot talk, but what he can or cannot say.

So I think for those who voted against the Moynihan amendment on the grounds that it intruded upon the authority of the President, I ask you to consider how you will vote on this amendment. All of us in public life, whose words are recorded, meet ourselves coming around the corner from time to time. But not often do Senators cast votes with such total inconsistency within such a short period of time. We ought to try to at least let one sunset and sunrise elapse between totally inconsistent votes.

Yet anybody who voted against the Moynihan amendment who now votes for this amendment is casting a vote that is diametrically opposite to that which was cast just a short time ago.

Mr. President, I understand the Senator from Maine wishes to speak. The Senator from Missouri controls the time.

Mr. COHEN. Will the Senator yield for a question?

Mr. MITCHELL. Certainly.

Mr. COHEN. I would like my colleague's legal interpretation. If the contacts were to be initiated through nonappropriated funds or from funds furnished through third countries, would that be permissible conduct on behalf of the President of the United States?

Mr. MITCHELL. I did not write this amendment.

Mr. COHEN. I am trying to figure out if there is any symmetry between the previous Moynihan amendment, which would allow the President to take this action provided it was third countries who supplied the funds. If in this case we had a situation where funds were not appropriated but were furnished by third countries, would

that allow the President to continue to talk to Mr. Noriega?

Mr. MITCHELL. I believe under this amendment it would. I believe the Senator, my distinguished colleague, is making a point very effectively. Why does the Senator not make the point? It is a very good one.

Mr. COHEN. I am just trying to follow up on the point made by my good friend from Maine. That is, on one hand we have criticism coming where we seek to pass laws which require the President to comply with the rule of law, and this is viewed as an intrusion into foreign policy. Yet we have the same thing here, but it is written so: only if funds are not authorized. In other words, the President cannot carry out these contacts through appropriated funds. The question arises could he, in fact, initiate contact with General Noriega through nonappropriated funds or through funding coming from third countries?

If that is the case, would that be, in fact, consistent with the position of the Senator from North Carolina as articulated in the Moynihan amendment?

Mr. MITCHELL. The Senator has made the point very effectively, that what we have done here is to say that the President cannot do this with the use of U.S. funds but if somehow he could go around and solicit them from some other source, he could engage in that type of activity.

That is the position of one who voted against the Moynihan amendment and for this. It is, I think, a situation not contemplated by the men who wrote the Constitution.

I thank my distinguished colleague.

The PRESIDING OFFICER. Has the Senator from Missouri yielded? He yielded time and he controls the time.

Mr. DANFORTH. Madam President, how much time do I have?

The PRESIDING OFFICER. The distinguished majority leader asked for a few minutes. Is the Senator yielding time?

Mr. DANFORTH. Madam President, do I have any remaining time?

The PRESIDING OFFICER. The Senator has 36 seconds.

Mr. DANFORTH. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina has 10 minutes.

Mr. HELMS. I will say to my friend, the former Federal judge: let him call collect.

Madam President, I am just a little bit astonished that the distinguished majority leader and my friend from Missouri could possibly charge me with inconsistency. My opposition to the amendment by the distinguished Senator from New York [Mr. MOYNIHAN] was based on the fact that his amendment usurps the constitutional powers of the President to conduct foreign policy. I stated then that Congress has the power of the purse. I said it yesterday over and over again. I said it today. And I will say it again. That is our power.

We do not have the power that Mr. MOYNIHAN bestowed upon the Congress of the United States to make policy a criminal act.

There is a great deal of difference. I stated as clearly as I knew how——

Mr. NICKLES. Will the Senator yield for a question?

Mr. HELMS. No, sir.

We could cut off U.S. Government funding, but we cannot touch the President's decision on policy if no U.S. Government funding is required. I said that with reference to Mr. MOYNIHAN's amendment. I say it to this one. I say to the distinguished Senator that the pending amendment is a cutoff of funds. It is an exercise of the power of the purse. It is our one recourse, under the Constitution. It is perfectly legitimate and constitutional.

Using nonappropriated funds for contacts would be consistent with the Helms amendment, but not consistent with the Moynihan amendment, contrary to what has been said here. Cutting off of funds is as far as we can go in the Congress. Maybe we would like to go farther, but we cannot and that is the point.

I am wondering if the distinguished majority leader and my friend from Missouri, Mr. DANFORTH, have read the amendment, particularly as modified. Let us read it all, just so everybody will understand what it says:

> No funds authorized to be appropriated in this or any other act shall be made available for the purpose of initiating or conducting contacts with General Manuel Antonio Noriega except for the purpose of issuing a warrant or executing his arrest to stand trial under the terms of the indictment issued on February 5, 1988, in the United States District Court for the Southern and Central Districts of Florida on drug related charges * * *.

I will say parenthetically that that is the policy of the Bush administration right now. That is where they stand right now. We are not telling them to do anything. We are just saying that underlings, such as the one I mentioned a while ago, the acting Ambassador from the United States to the Organization of American States, will be absolutely prohibited. But I do not make it a criminal act. I just say he cannot do it and he cannot use any funds.

A mountain is being made out of a molehill. But let me finish the amendment.

> * * * unless the President determines and certifies to Congress that the contacts are intended to result in the departure of Noriega from power.

That is the policy of the Bush administration and I hope to God that he will not change it. And I hope, similarly, that no Senator wants that policy changed. And that is what this amendment is about. There is no inconsistency whatsoever in my position on the Moynihan amendment, which, according to constitutional experts who have advised me, is patently unconstitutional, this amendment, which we do all the time. Who are the majority leader's people to talk about this amendment? They are the ones who cut off funds to the freedom fighters in Nicaragua and they caused the problem in Central America when they did so. Go look at the Boland amendments. So let us be consistent around this place and not charge somebody who is being consistent with inconsistency.

How much time do I have remaining, Madam President?

The PRESIDING OFFICER. The Senator has 5 minutes and 14 seconds.

Mr. HELMS. In the interest of letting Senators go home, I yield back the remainder of my time. Let us vote.

The PRESIDING OFFICER. The Senator from Missouri controls time.

Mr. DANFORTH. Madam President, I make just two points in my 36 seconds. First, even as amended, I am told that the administration opposes this amendment.

Second, if it is the intention of the U.S. Senate to get Noriega out, the clearest way to get him out is to facilitate possible discussions, and the clearest way to cement him in power, to freeze him in, is to absolutely prohibit any kind of flexibility by the administration in dealing with him.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from North Carolina yields his time back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays, 62, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—37

Armstrong	Graham	McClure
Boschwitz	Gramm	McConnell
Breaux	Grassley	Murkowski
Burns	Harkin	Nickles
Coats	Hatch	Pressler
D'Amato	Heflin	Roth
DeConcini	Helms	Shelby
Dixon	Humphrey	Symms
Exon	Kasten	Thurmond
Ford	Kerry	Wallop
Fowler	Lieberman	Wilson
Garn	Lott	
Gore	Mack	

NAYS—62

Adams	Biden	Boren
Baucus	Bingaman	Bradley
Bentsen	Bond	Bryan

Bumpers	Hollings	Packwood
Burdick	Inouye	Pell
Byrd	Jeffords	Pryor
Chafee	Johnston	Reid
Cochran	Kassebaum	Riegle
Cohen	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Cranston	Kohl	Rudman
Danforth	Lautenberg	Sanford
Daschle	Leahy	Sarbanes
Dodd	Levin	Sasser
Dole	Lugar	Simon
Domenici	McCain	Simpson
Durenberger	Metzenbaum	Specter
Glenn	Mikulski	Stevens
Gorton	Mitchell	Warner
Hatfield	Moynihan	Wirth
Heinz	Nunn	

NOT VOTING—1

Matsunaga

So, the amendment (No. 278), as modified, was rejected.

Mr. MITCHELL. I move to reconsider the vote by which the amendment was rejected.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORE. Madam President, I ask unanimous consent to change the figure cited in the pending amendment from 15 percent to 30 percent.

Mr. GRAMM. Madam Chairman, I object.

The PRESIDING OFFICER. Objection is heard.

VOTE ON AMENDMENT NO. 227

The PRESIDING OFFICER. Under the previous order, the question is now on agreeing to the amendment by the Senator from Tennessee. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is absent because of illness.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 20, nays 79, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—20

Breaux	Gore	Pell
Bumpers	Inouye	Pressler
Burdick	Kennedy	Pryor
Byrd	Leahy	Sarbanes
Cranston	Levin	Sasser
Exon	Metzenbaum	Simon
Ford	Mikulski	

NAYS—79

Adams	Danforth	Heflin
Armstrong	Daschle	Heinz
Baucus	DeConcini	Helms
Bentsen	Dixon	Hollings
Biden	Dodd	Humphrey
Bingaman	Dole	Jeffords
Bond	Domenici	Johnston
Boren	Durenberger	Kassebaum
Boschwitz	Fowler	Kasten
Bradley	Garn	Kerrey
Bryan	Glenn	Kerry
Burns	Gorton	Kohl
Chafee	Graham	Lautenberg
Coats	Gramm	Lieberman
Cochran	Grassley	Lott
Cohen	Harkin	Lugar
Conrad	Hatch	Mack
D'Amato	Hatfield	McCain
McClure	Riegle	Stevens
McConnell	Robb	Symms
Mitchell	Rockefeller	Thurmond
Moynihan	Roth	Wallop
Murkowski	Rudman	Warner
Nickles	Sanford	Wilson
Nunn	Shelby	Wirth
Packwood	Simpson	
Reid	Specter	

NOT VOTING—1

Matsunaga

So the amendment (No. 277) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Tennessee be permitted to address the Senate for 2 minutes on the subject of the amendment just voted on.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Tennessee.

Mr. GORE. Mr. President, I wish to serve notice that I intend to reoffer the amendment tomorrow to the same bill with the percentage change from 15 percent to 30 percent. The reason is that a number of colleagues expressed support for the principle contained in the amendment but felt that in light of past practice under administrations of both parties the percentage should be higher.

I also hope to continue to establish a record that will be useful when the Senate is next confronted with a nominee whose credentials are thin, who is clearly unqualified for the post for which that person is nominated, so that those who argue that the Senate has the remedy to abuses of the nominating process will then look more carefully at the qualifications of some of the people who are being sent over to use by this present administration.

But I do want to serve notice that during tomorrow's session I will introduce an amendment to the same bill worded as the amendment just defeated but with 30 percent instead of 15 percent.

I thank the majority leader for the unanimous-consent request.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, for the information of Senators there will be no further rollcall votes this evening.

However, Senators should be aware that there will continue to be debate and discussion on amendments.

Mr. PRESSLER. Mr. President, if it is necessary to have a rollcall vote, could we get one early tomorrow morning?

Mr. MITCHELL. I was about to state that.

If any votes are ordered on amendments debated this evening they will be ordered for tomorrow morning.

It is my intention after discussion with the distinguished Republican leader, the chairman, and ranking member of the committee, to seek to obtain unanimous consent on the remaining amendments with time limits shortly.

Senators who have an interest in amendments should be present for that purpose or should communicate their intentions to the respective majority and minority staffs.

I understand the managers are prepared to consider an amendment or amendments now.

Mr. PELL. That is correct on our side.

Mr. MITCHELL. If they could proceed to do that with the understanding that when we have the proposed agreement ready, we could interject and try to get that agreement, that would be I believe, helpful to all concerned.

Mr. PRESSLER. That is fine.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

AMENDMENT NO. 280

(Purpose: Expressing the sense of the Congress on the Yugoslavian human rights situation)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. DOLE, Mr. D'AMATO, and Mr. DOMENICI, proposes an amendment numbered 280.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . HUMAN RIGHTS IN YUGOSLAVIA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the United States continues to support the independence, unity, and territorial integrity of Yugoslavia;

(2) the Department of State's 1988 Country Report on Human Rights Practices cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards, including infringement upon and abrogation of the rights of assembly and fair trial, freedom of speech, and freedom of the press;

(3) the Country Report also indicates that these human rights violations are targeted at certain ethnic groups and regions, most particularly against the ethnic Albanians in

the Socialist Autonomous Province of Kosovo;

(4) the human rights of all ethnic groups in Kosovo must be preserved;

(5) those human rights violations, in addition to recent actions taken to limit the social and political autonomy of Kosovo, have precipitated a crisis in that region;

(6) the response of the Government of Yugoslavia to that crisis was a police crackdown that led to the deaths of many civilians and police officers, the wounding of hundreds more, and the imprisonment of additional hundreds;

(7) these human rights abuses violate the high ideals of mutual equality, dignity, and brotherhood among all of the nations and nationalities in Yugoslavia, which have been the guiding principles of Yugoslavia since 1945; and

(8) the European Parliament of the European Community has condemned these actions by the Government of Yugoslavia.

(b) STATEMENT BY THE CONGRESS.—The Congress—

(1) expresses concern regarding human rights violations by the Government of Yugoslavia and its repressive handling of the crisis in the Socialist Autonomous Province of Kosovo;

(2) urges the Yugoslav Government to take all necessary steps to assure that further violence and bloodshed do not occur in Kosovo;

(3) urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act and the United Nations Declaration on Human Rights to assure full protection of the rights of the Albanian ethnic minority and all other national groups in Yugoslavia;

(4) requests the President and the Department of State to continue to monitor closely human rights conditions in Yugoslavia; and

(5) calls upon the President to express these concerns of the Congress through appropriate channels to representatives of Yugoslavia.

Mr. PRESSLER. Mr. President, I understood that the distinguished managers of the bill were prepared to accept this amendment regarding human rights in Yugoslavia. If that is the case, I wish to express my appreciation to the managers.

This amendment is quite similar to a resolution offered by Senators DOMENICI, D'AMATO, DOLE, and myself a few weeks ago.

It is identical to language adopted by the House during floor consideration of the foreign assistance authorization bill the week before last. It is also identical to an amendment adopted to the foreign assistance bill last week in the Foreign Relations Committee.

It is clear that there is a growing human rights problem in Yugoslavia. It affects Albanians, Croatians, Slovenians, and other non-Siberian nationalities in that country.

I do not argue that there have been abuses against all sides, but I refer specifically to the recently issued Amnesty International report on Yugoslavia. The report details some of the torture and other violence that has occurred in the Province of Kosovo.

Mr. President, I urge all Senators to examine the May and June 1989 Amnesty International report on the Yugoslavian situation as well as the 1988 State Department country report on human rights practices on this subject.

As this amendment states, Yugoslavia is violating internationally accepted human rights standards with respect to certain ethnic minorities, particularly ethnic Albanians in Kosovo Province.

The European parliament has condemned these human rights abuses. The Congress of the United States should do the same.

I might say that the House, under the leadership of Congressman LANTOS and others, has adopted this identical amendment, as has the Foreign Relations Committee of the United States Senate.

This amendment basically takes the same position as the European Parliament.

The amendment expresses concerns about human rights violation in Yugoslavia, urges Yugoslavia to prevent further violence in Kosovo and fully observe the Helsinki Final Act and the United Nations Declaration on Human Rights. It requests our own Government to continue close monitoring of Yugoslavian human rights conditions and calls on the President to express these concerns of the Congress to representatives of Yugoslavia.

Mr. President, I urge the adoption of this amendment, and ask unanimous consent that Senators DOLE, DOMENICI, and D'AMATO be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, if this amendment is not accepted, I would like to ask for the yeas and nays and have them ordered for a time specific tomorrow.

Several Senators addressed the Chair.

Mr. PRESSLER. Mr. President, on this amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There does not appear to be a sufficient second.

Mr. PRESSLER. Mr. President, I ask again for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota has the floor.

The Chair recognizes the Senator from Maryland [Mr. SARBANES].

AMENDMENT NO. 281 TO AMENDMENT NO. 280

Mr. SARBANES. Mr. President, I send a perfecting amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES] proposes an amendment numbered 281 to the Pressler amendment numbered 280.

Strike all after "SEC. 862" and insert the following: "Human Rights in Yugoslavia."

Mr. PRESSLER. Mr. President, I did not yield the floor. Mr. President, I did not yield the floor.

Mr. President, a point of parliamentary inquiry.

The PRESIDING OFFICER. Once the yeas and nays were requested, the Senator yielded the floor with that particular request.

The clerk will read the amendment.

The assistant legislative clerk continued reading the amendment.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

HUMAN RIGHTS IN YUGOSLAVIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States continues to support the independence, unity, and territorial integrity of Yugoslavia;

(2) recent months have seen increased violence and social unrest in the Socialist Autonomous Province of Kosovo;

(3) the State Department's 1988 Country Report on Human Rights Practices cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards;

(4) the Country Report also indicates that despite the Yugoslavian Government's efforts to provide for the equality of its citizens, some social prejudice continues to exist, particularly with regard to ethnic Albanians, and the Serbian minority in Kosovo has complained sharply of physical mistreatment and discriminatory practices on the part of the Albanian majority there;

(5) these human rights abuses violate the high ideals of mutual equality, dignity, and brotherhood among all of the nations and nationalities in Yugoslavia, which have been the guiding principles of Yugoslavia since 1945; and

(6) the human rights of all ethnic groups in Kosovo must be preserved.

(b) STATEMENT BY THE CONGRESS.—The Congress—

(1) expresses concern regarding human rights abuses, violence and ethnic unrest in the Kosovo province;

(2) urges the Government of Yugoslavia to take all necessary steps to assure that further violence does not occur in Kosovo;

(3) urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act and the United Nations Declaration on Human Rights to assure full protection of the rights of all citizens of Kosovo;

(4) requests the President and the Department of State to continue to monitor closely the human rights situation in Kosovo;

(5) calls upon the President to express these concerns of the Congress through appropriate channels to representatives in Yugoslavia.

Mr. SARBANES. Mr. President, I have had discussions earlier in the day

with the able and distinguished Senator from South Dakota that prompted a discussion I had with the very able Congresswoman from Maryland, HELEN BENTLEY of this issue. She makes the point, as in fact is made in the State Department's human rights report, that there have been allegations and complaints back and forth between the Serbian minority in Kosovo and the Albanian majority there.

There is a difficult human rights situation in Kosovo, and I believe the Senate must go on record with respect to it. I therefore think that the language must be worked out very carefully, and the language that I have just submitted I think accomplishes that.

On the 11th of July, Congresswoman BENTLEY made an extended statement in the CONGRESSIONAL RECORD, having just returned from a trip to Yugoslavia and a visit to Serbia.

I am not trying to determine the rights and wrongs of these disputes. I think that we need to recognize the difficult situation there on the human rights front and call on Yugoslavia to abide by its Helsinki commitments, as the Senator from South Dakota has done.

What we have done in this perfecting amendment—and I will quote from it now for the benefit of the Senate—is to find that:

The United States continues to support the independence, unity, and territorial integrity of Yugoslavia;

Recent months have seen increased violence and social unrest in Kosovo;

The State Department's 1988 Country Report on Human Rights Practices cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards;

The Country Report also indicates that despite the Yugoslavian Government's efforts to provide for the equality of its citizens, some social prejudice continues to exist, particularly with regard to ethnic Albanians, and the Serbian minority in Kosovo has complained sharply of physical mistreatment and discriminatory practices.

So there are many allegations back and forth.

We also find that:

These human rights abuses violate the high ideals of mutual equality, dignity, and brotherhood among all of the nations and nationalities in Yugoslavia * * *;

The human rights of all ethnic groups in Kosovo must be preserved.

The perfecting amendment then goes on with the statement by the Congress expressing concern regarding human rights abuses; urging the Government of Yugoslavia to take steps to assure that further violence does not occur; urging the Government of Yugoslavia to observe the Helsinki Final Act and the U.N. Declaration on Human Rights to assure full protection of the rights of all citizens of Kosovo; requesting the President and the Department of State to continue to monitor closely the human rights situation; and calling upon the President to express the concerns of the Congress through appropriate channels to representatives in Yugoslavia.

Mr. President, this language focuses on the human rights issue, expressed the very deep concern of the Congress about it, and references the State Department Country Report which sets forth a number of the human rights practices about which we are concerned, and which violate internationally accepted human rights standards. By referencing that report, we bring in the exposition that the State Department has made with respect to the human rights situation in Yugoslavia while in effect, broadening it to cover all ethnic groups and all minorities there, and pressuring Yugoslavia to respond with respect to all of its people.

I hope that this perfecting amendment will be found acceptable and that this matter can be disposed of, thus putting the Senate on record with respect to the human rights situation in Yugoslavia.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

Mr. PRESSLER. Mr. President, I wish to point out to the Senate that my amendment discusses "the human rights of all ethnic groups in Kosovo." It mentions the Albanian ethnic minority and all other national groups in Yugoslavia.

The Amnesty International report mentions specifically some of the torture that has occurred against Albanians. I see very little change in my colleague's version of the amendment, except that he has added a reference to undocumented complaints by the Serbian minority.

My amendment, as filed, mentions all other ethnic groups. My amendment urges the Government of Yugoslavia to obeserve fully its obligations under the Helsinki Final Act and the United Nations Declaration on Human Rights to assure full protection of the rights of the Albanian ethnic minority and all other national groups in Yugoslavia.

This is the exact language that passed the House. It has been crafted in part by Congressman TOM LANTOS. It has passed the Senate Foreign Relations Committee.

We had agreement of the bill's managers to accept the amendment on the floor. I am sorry that the Senator from Maryland feels that my amendment takes sides. It does not. That much is quite clear from reading the amendment. Two rollcall votes on this really runs against my grain and is not my style, but we may have to proceed along those lines.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. SARBANES. Mr. President, I commend to my colleague Congresswoman BENTLEY's statement of the 11th of July. It seems to me that the perfecting amendment avoids the problem of being too one-sided and still gets at the human rights problem that exists in Yugoslavia, which I think we need to address.

I commend the perfecting amendment to my colleague as a way of resolving this matter and essentially accomplishing his purpose without, at the same time, creating needlessly, in my view, a further problem. Let me just quote from Congresswoman BENTLEY's letter.

She says, "The amendment"—referring to the language that was originally offered—"does not take into account the suffering of the Serbians at the hands of Albanian separatist terrorists." She then goes on to reference the burning of the ancient Patriarchate of Pec, the See of the Patriarchs of the Serbian Orthodox Church.

I do not really want to get into the middle of what is obviously a very difficult situation in terms of the ethnic emnities and rivalries which have existed for a very long period of time and have very strong historical antecedents.

It seems to me the way to accomplish our purpose here without becoming embroiled in that problem is to take the perfecting language which references the State Department's human rights report—which, incidentally, does make reference to practices on both sides—and then put us very strongly on record expressing our concern about human rights abuses. The language goes on to urge the Government of Yugoslavia to take necessary steps to assure no further violence; urges it to observe the Helsinki Final Act and the U.N. Declaration on Human Rights; requests the President and the Department of State to monitor closely the human rights situation in Kosovo; and calls upon the President to express these concerns through appropriate channels to representatives in Yugoslavia.

It seems to me this language achieves what the Senator from South Dakota is trying to achieve. I really have no difference with him on that purpose without drawing us into this other issue about what I have heard from Congresswoman BENTLEY. I mean I would prefer not to make a judgment on the relative merits of the alternative arguments.

Mr. PRESSLER. Will my friend yield for a question?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from South Dakota?

Mr. SARBANES. Certainly I yield for purposes of a question.

Mr. PRESSLER. With the greatest respect, is it not true that the second

and third points of my amendment refer to the Department of State 1988 Country Report on Human Rights Practices, which cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards, including infringement upon and abrogation of the rights of assembly, fair trial, and freedom of speech? Is it not true that the Country Report also indicates these human rights violations are targeted at certain ethnic groups and regions, most particularly against the ethnic Albanians in the Socialist Autonomous Province of Kosovo?

Mr. SARBANES. But what the Senator has done is he has taken the State Department Human Rights Report and excerpted from it certain parts. What I think is fair and what ought to be done is to reference all of the report, which is what the perfecting amendment does. That, then, avoids our being drawn into the dispute.

The State Department has, in fact, referenced a range of human rights abuses involving both ethnic groups. To take only part of them or take it on one side, it seems to me, does not give a full picture.

I am trying to argue that position as much as I am trying to simply reference the entire report to avoid being drawn into that matter, and then to continue with a very strong statement about the concern of the Congress with respect to human rights abuses. Those violations ought not to be happening.

They may be happening on both sides and, in fact, the State Department notes that that may be the case.

Mr. PRESSLER. Mr. President, we have not seen the amendment. Perhaps to save the time of the Senate, we could see it to determine whether we could work the language out? My friend's amendment closely tracks mine in most respects?

Mr. SARBANES. I am sorry. I thought a copy had been delivered to the Senator. I will certainly take care of that right now.

Mr. PRESSLER. I do not want to delay the Senate's business. I would be willing, if it would be useful, to withdraw my amendment, perhaps work out something, and reoffer it tomorrow, if that is agreeable.

I do not think we are very far apart. If my colleague prefers to go forward with votes, I also am prepared to do that.

Mr. SARBANES. I am prepared to try to work something out. Why do we not leave it in the form in which it finds itself. I think, upon examining the amendment, the Senator may well reach the conclusion that it accomplishes his purposes, without drawing the Senate into trying to make a determinative judgment about a difficult ethnic conflict.

My problem is we cannot excerpt from the report part of the problem without referencing all of the problem.

Mr. PRESSLER. For example, part 4 of the Senator's amendment, which has been handed to me, mentions the Albanians. It is identical to my amendment. It says:

The Country Report also indicates that despite the Yugoslavian Government's efforts to provide for the equality of its citizens, some social prejudice continues to exist, particularly with regard to ethnic Albanians, and the Serbian minority in Kosovo has complained sharply of physical mistreatment.

Now, the Serbian minority, is that part of the Country Report?

Mr. SARBANES. That is right, page 1264.

Mr. PRESSLER. They have complained, but is that a factual finding? It is our understanding that the Country Report made a finding regarding the Albanians, but simply identified complaints of the Serbian minority.

Is it my friend's effort to add the word "Serbian" to the amendment? Is that the intent of his perfecting amendment?

Mr. SARBANES. I am happy to strike paragraph 4, if that makes the Senator feel any better about it. Perhaps we can agree on it and then just reference the Country Report and go on to the fact that the human rights abuses entailed in the Country Report violate the high ideals mentioned in paragraph 5: "The human rights of all ethnic groups in Kosovo must be preserved." And strike out the specific references in 4 which were intended to make the point that we have one ethnic group complaining about its treatment from the other and then we have the other ethnic group complaining about its treatment from the first.

If that would resolve the matter, we could strike paragraph 4 and simply reference the State Department's Country Report, which is in paragraph 3. Then we do not have to get into the specifics.

Mr. PRESSLER. That would be agreeable to me. I have no problem with that.

Mr. SARBANES. If we do that, can we then go ahead and agree to this amendment and resolve the matter?

Mr. PRESSLER. Yes, as far as I am concerned. I do not think we have substantially changed it. If that would make the Senator from Maryland happy, that is agreeable to me.

AMENDMENT NO. 281 AS MODIFIED

Mr. SARBANES. Mr. President, I ask unanimous consent to modify the perfecting amendment by striking paragraph (a)(4), which begins: "The Country Report also indicates that"; strike that entire paragraph and renumber the following paragraphs 4 and 5.

The PRESIDING OFFICER. The Senator has the right. The perfecting amendment will be modified accordingly.

Amendment No. 281, as modified, is as follows:

HUMAN RIGHTS IN YUGOSLAVIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States continues to support the independence, unity, and territorial integrity of Yugoslavia;

(2) recent months have seen increased violence and social unrest in the Socialist Autonomous Province of Kosovo;

(3) the State Department's 1988 Country Report on Human Rights Practices cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards;

(4) these human rights abuses violate the high ideals of mutual equality, dignity, and brotherhood among all of the nations and nationalities in Yugoslavia, which have been the guiding principles of Yugoslavia since 1945; and

(5) the human rights of all ethnic groups in Kosovo must be preserved.

(b) STATEMENT BY THE CONGRESS.—The Congress—

(1) expresses concern regarding human rights abuses, violence, and ethnic unrest in the Kosovo province;

(2) urges the Government of Yugoslavia to take all necessary steps to assure that further violence does not occur in Kosovo;

(3) urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act and the United Nations Declaration on Human Rights to assure full protection of the rights of all citizens of Kosovo.

(4) requests the President and the Department of State to continue to monitor closely the human rights situation in Kosovo; and

(5) calls upon the President to express these concerns of the Congress through appropriate channels to representatives in Yugoslavia.

Mr. SARBANES. Mr. President, I am prepared to go ahead and adopt that amendment and conclude the matter.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Maryland to the amendment of the Senator from South Dakota.

The amendment (No. 281), as modified, was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 280), as amended, was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, I do want to commend the distinguished

Senator from South Dakota for his leadership on this issue. As I explained to him earlier, my own involvement was essentially brought by the representations made to me by my able and distinguished colleague from Maryland, Congresswoman BENTLEY, who based them on a recent trip that she made. I think we are better off now without having actually gotten into the details. We have referenced the State Department human rights study. We have adopted essentially the Senator's version of the statement by the Congress. I think it is an important contribution on the human rights front.

I thank the Senator.

Mr. PRESSLER. I thank my colleague from Maryland. I enjoy working with him on the Foreign Relations Committee. He is always thoughtful, articulate, and very concerned about human rights. I am glad we were able to work this out.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. MACK. Mr. President, I strongly support the Helms/Grassley PLO amendment prohibiting American diplomats from negotiating with representatives of the PLO who were involved in the death, injury, or kidnaping of an American citizen. It is unfortunate that an amendment such as this is necessary, but it is.

This amendment is consistent with title 13 of this bill, called the PLO Commitments Compliance Act of 1989, which I offered as an amendment to the bill in Foreign Relations Committee. The central purpose of the PLO Commitments Compliance Act is to hold the PLO to its commitments to recognize Israel and renounce terror. Both the provision in the bill and the amendment before us attempt to make sense of our policy of talking to the PLO. Both try to make this policy consistent with our support for the freedom and security of our closest ally in the region, Israel, and our opposition to terrorism wherever it may occur.

Mr. President, I would like to believe that President Bush was not aware that his representative would be meeting with Salah Khalaf, the No. 2 man in the PLO and a founder of Black September, one of the most vicious terrorist factions we have ever seen. I would like to believe that if he was aware of and approved this meeting, that he did not know the crimes which this man is responsible for against American citizens, and the citizens of American allies.

Because I believe that President Bush meant it when he said that "Terrorism is a crime, and terrorists must be treated as criminals." I believe that he meant it when he said that "Rewarding terrorism will only encourage more terrorism." I believe he meant it when he said "We will bring terrorists to justice."

Salah Khalaf is not a diplomat. He is a terrorist. He should, as President Bush said, be treated as a criminal and brought to justice. He should not, as President Bush said, be rewarded.

Nor is Salah Khalaf the only terrorist with whom we are talking. A regular participant in our dialog with the PLO is Yasser Abed Rabbu identified in the November 1988 Defense Department publication "Terrorist Group Profiles" as the "number two man" in the DFLP, the Democratic Front for the Liberation of Palestine.

The Defense Department report describes the DFLP as a "Marxist-Leninist and pro-Soviet group which believes that the Palestinian national goal cannot be achieved without a revolution of the working class * * *" The report says that "the DFLP opposed the agreement between Yasir Arafat and King Hussein that called for a joint PLO-Jordanian position on peace negotiations with Israel."

The report also states that the DFLP "receives training in the Soviet Union and aid from Cuba and is in contact with members of the Nicaraguan Sandinista Liberation Front."

I will ask unanimous consent that excerpts from the report "Terrorist Group Profiles" be included in the RECORD following my remarks.

Mr. President, do we not have a human obligation to the mothers and fathers of the children who died at the direction of this man, Yasser Abed Rabbu, to help bring him to justice rather than treat him as a diplomat?

I do not know if the DFLP was implicated in the deaths of any Americans. But I do not think we should be talking to anybody who deliberately slaughters innocent children.

Just as I would hope that no ally of ours would talk to terrorists who kill Americans, we should not talk to terrorists who murder citizens of our allies, such as Israel. This is not just a matter of courtesy, but of an internationally coordinated approach to combating terror.

In closing, I am not in principle opposed to conveying our views to the PLO in a responsible manner, especially if the PLO actually makes fundamental changes transforming its terrorist nature, rather than simply adjusting its rhetoric. It seems to me that this message can be conveyed without talking to people responsible for the deaths of Americans or innocent civilians in allied nations.

I commend the Senator from North Carolina for his amendment and urge its adoption.

I ask unanimous consent that the excerpts to which I referred be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

DEMOCRATIC FRONT FOR THE LIBERATION OF PALESTINE [DFLP]

Date formed 1969.

Estimated membership 500.

Headquarters previously Syria, presently unknown.

Area of operations Lebanon and Israel.

Leadership Naif Hawatmeh, who depends heavily on Yasser Abed Rabbu, Qais Samarral (Abu Leila), and Abd-al-Karim Hammad (Abu Adnan).

Other names Popular Democratic Front for the Liberation of Palestine (PDFLP).

Sponsor Syria has provided some support, but the DFLP is intensely independent.

Political objectives/target audiences.—seek revolutionary change in the Arab World, especially in the conservative monarchies, as a precursor to the achievement of Palestinian objectives; advocate an international stance that places the Palestinian struggle within a general world context of liberation in Africa, Asia, and Latin America; repeatedly affirm its "hostility and resistance" to US policy in the region, its support for the nonaligned block, and its solidarity with all national liberation movements that fight against "imperialism" and racism.

BACKGROUND

The DFLP is Marxist-Leninist and pro-Soviet and believes that the Palestinian national goal cannot be achieved without a revolution of the working class; elite members of the movement should not be separated from the masses, and the lower classes first should be educated in true socialism to carry on the battle.

At the spring 1977 Palestine National Council meeting, the DFLP gave full support to the Palestine national program, seeking creation of a Palestinian state from any territory liberated from Israel.

In mid-1979, the DFLP reportedly experienced an upsurge in its membership and an accompanying increase in influence. Although it remained a member of the Executive Committee of the Palestine Liberation Organization (PLO), the DFLP cooperated increasingly with anti-Arafat Palestinian extremists.

The DFLP strongly disapproved of the PLO leadership's failure to take more severe action against Anwar Sadat after his peace initiative.

Furthermore, the DFLP signed the Tripoli declaration in 1983, rejecting the Reagan and Fez peace plans and contact with the Israelis. The DFLP also did not support the Fatah rebels in 1983 or 1984, believing that their movement was damaging to the Palestine cause. In addition, the DFLP opposed the agreement between Yasir Arafat and King Hussein that called for a joint PLO-Jordanian position for peace negotiations with Israel.

The DFLP refused to join the Syrian-created Palestine National Salvation Front, but the Popular Front for the Liberation of Palestine (PFLP) did, leading to the breakup of the "Democratic Alliance" between the DFLP and PFLP.

DFLP operations always have taken place either inside Israel or the occupied territories. Typical acts are minor bombings and grenade attacks, as well as spectacular operations to seize hostages and attempt to negotiate the return of Israeli-held Palestinian prisoners.

Prior to the rift following the March 1987 Palestine National Council meeting in Algiers, Syria had provided most of the DFLP's outside support. The DFLP receives

training in the Soviet Union and aid from Cuba. The DFLP is also in contact with members of the Nicaraguan Sandinista Liberation Front.

SELECTED INCIDENT CHRONOLOGY

May 1974.—Took over schoolhouse and massacred Israelis in Ma'alot after infiltrating using uniforms that resemble those of the Israel Defense Forces (IDF). Murdered 27 Israelis and wounded a total of 134.

November 1974.—Attacked the town of Bet She'an in Israel. Three terrorists barricaded themselves in a building with handgrenades and Kalashnikov rifles and demanded the release of 15 Palestinians.

July 1977.—Implicated in several bombings in Jerusalem and Tel Aviv.

January 1979.—Attempted to seize 230 civilians at a guest house in Ma'alot. The three terrorists, armed with Kalashnikovs and handgrenades, were killed by a routine IDF patrol.

March 1979.—Claimed responsibility for planting bombs in Israeli buses to protest President Carter's visit to Israel.

March 1982.—Claimed responsibility for a grenade attack in the Gaza Strip that killed an Israeli soldier and wounded three others.

February 1984.—Claimed responsibility for a grenade explosion in Jerusalem that wounded 21 people.

September 1985.—Attacked an Israeli bus near Hebron on the West Bank.

March 1986.—Several guerrillas, wearing IDF uniforms, attempted to infiltrate from Lebanon into Israel but were intercepted by an Israeli patrol.

May 1988.—Threw molotov cocktail at Industry and Trade Minister Ariel Sharon's car. Security forces uncovered several terrorist squads of DFLP and charged them witn terrorist activities.

SCHEDULE

Mr. MITCHELL. Mr. President, the respective staffs are working on preparing lists of amendments intended to be offered. It is clear, as so often happens in the legislative process, that the list is a lengthy one. It will, apparently, not be possible to prepare it in form sufficiently complete to present this evening.

Accordingly, Senators should be aware that it is my intention, following consultation with the distinguished Republican leader and the managers, to, upon recess of the Senate this evening, have the Senate come in tomorrow morning at or about 9:15 a.m. and that following only brief time for leaders to go back to this bill, and at that point which would be shortly after 9:15, to propound this unanimous-consent request. Senators who are interested should be aware of that.

We will attempt to identify and obtain time limitations on such amendments as are intended to be offered as of tomorrow morning early. Senators should also be aware that it is my intention, it is my hope, that we can complete action on this bill tomorrow which means that tomorrow will be a lengthy session with the possibility of several rollcall votes, and Senators should be prepared for that in arranging their schedules for tomorrow.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 93. Joint resolution to designate October 1989 as "Polish American Heritage Month";

S.J. Res. 110. Joint resolution designating October 5, 1989, as "Raoul Wallenberg Day"; and

S.J. Res. 129. Joint resolution to provide for the designation of September 15, 1989, as "National POW/MIA Recognition Day".

The message also announced that the House has passed the following bills, and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 875. An act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park near Fredericksburg, Virginia;

H.R. 919. An act to increase the site of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, and the Canyonlands unit;

H.R. 1860. An act to provide that a Federal annuitant or former member of the uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 1990 decennial census of population shall be exempt from certain provisions of title 5, United States Code, relating to offset from pay and other benefits;

H.R. 2431. An act to redesignate the Midland General Mail Facility in Midland, Texas, as the "Carl O. Hyde General Mail Facility"; and

H.J. Res. 221. Joint resolution to designate the week beginning September 1, 1989, as "World War II Remembrance Week".

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 875. An act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park near Fredericksburg, Virginia; to the Committee on Energy and Natural Resources.

H.R. 919. An act to increase the site of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, and the Canyonlands unit; to the Committee on Energy and Natural Resources.

H.R. 2431. An act to redesignate the Midland General Mail Facility in Midland, Texas, as the "Carl O. Hyde General Mail Facility"; to the Committee on Governmental Affairs.

H.J. Res. 221. Joint resolution to designate the week beginning September 1, 1989, as "World War II Remembrance Week"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1860. An act to provide that a Federal annuitant or former member of a uniformed service who returns to Government service, under a temporary appointment, to assist in carrying out the 1990 decennial census of population shall be exempt from certain provisions of title 5, United States Code, relating to offsets from pay and other benefits.

MEASURES ORDERED HELD AT THE DESK

The following joint resolution, previously received from the House of Representatives for concurrence, was ordered held at the desk by unanimous consent:

H.J. Res. 281. Joint resolution to approve the designation of the Cordell Bank National Marine Sanctuary, to disapprove a term of that designation, to prohibit the exploration for, or the development or production of, oil, gas, or minerals in any area of that sanctuary, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 54. A bill to amend the Age Discrimination in Employment Act of 1967 with respect to the waiver of rights under such act without supervision, and for other purposes (Rept. No. 101-79).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1347. An original bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and related statutory provisions, to authorize development and security assistance programs for fiscal year 1990, and for other purposes (Rept. No. 101-80).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BIDEN (for himself, Mr. ROTH, Mr. COHEN, Mr. MITCHELL, Mr. SIMON, Mr. DECONCINI, Mr. BURDICK, Mr. BOND, Mr. HEFLIN, Mr. HATCH, Mr. REID, Mr. GORE, Mr. BRYAN, Mr. KOHL, Mr. PELL, Mr. LIEBERMAN, Mr. CRANSTON, Mr. HOLLINGS, Mr. GRAHAM, Mr. SANFORD, Mr. LEVIN, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. FORD, Mr. CONRAD, Mr. DODD, Mr. NUNN, Mr. ADAMS, Mr. EXON, and Ms. MIKULSKI):

S. 1338. A bill to amend title 18, United States Code, to protect the physical integrity of the flag of the United States; to the Committee on the Judiciary.

By Mr. COHEN (for himself and Mr. PRYOR):

S. 1339. A bill to amend title XIX of the Social Security Act to continue Medicaid financing of daytime habilitation services in certain States; to the Committee on Finance.

By Mr. SPECTER:

S. 1340. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide for an Inspector General of the Federal Bureau of Investigation; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. CRANSTON):

S. 1341. A bill to provide certain administrative authority and requirements relating to the Arizona Veterans Memorial Cemetery; to the Committee on Veterans' Affairs.

By Mr. SANFORD:

S. 1342. A bill to suspend temporarily the duty on ranitidine hydrochloride; to the Committee on Finance.

By Mr. WIRTH:

S. 1343. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD:

S. 1344. A bill to amend the Internal Revenue Code of 1986 to allow insurance companies to be consolidated with noninsurance companies; to the Committee on Finance.

By Mr. GORE:

S. 1345. A bill to provide for the continuous assessment of critical trends and alternative futures; to the Committee on Government Affairs.

By Mr. BRYAN (for himself and Mr. GRAHAM):

S. 1346. A bill to amend the Communications Act of 1954 regarding the broadcasting of certain political matter, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL, from the Committee on Foreign Relations:

S. 1347. An original bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and related statutory provisions, to authorize development and security assistance programs for fiscal year 1990, and for other purposes; placed on the calendar.

By Mr. BAUCUS:

S. 1348. A bill to amend the Disaster Assistance Act of 1988 to require the Secretary of Agriculture to establish separate payment rates for the 1988 crops of feed barley and malting barley for purposes of determining the amount of any refund of advance deficiency payments payable by producers of such crops, to require the Secretary to conduct a study of the impact of establishing separate payment rates for the 1989 and subsequent crops of feed barley and malting barley for purposes of determining the amount of deficiency payment payable to producers of such crops, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR:

S. 1349. A bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements; to the Committee on Finance.

By Mr. BYRD:

S.J. Res. 179. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the desecration of the flag; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. DIXON, Mr. THURMOND, Mr. HEFLIN, Mr. WILSON, Mr. GRASSLEY, Mr. HATCH, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOND, Mr. BOSCHWITZ, Mr. BREAUX, Mr. BRYAN, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GORTON, Mr. GRAMM, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PRESSLER, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SHELBY, Mr. SIMPSON, Mr. STEVENS, Mr. SYMMS, Mr. WALLOP, and Mr. WARNER):

S.J. Res. 180. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI (for himself and Mr. DURENBERGER):

S. Con. Res. 54. Concurrent resolution relating to a White House Conference on Water Resources; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. ROTH, Mr. COHEN, Mr. MITCHELL, Mr. SIMON, Mr. DECONCINI, Mr. BURDICK, Mr. BOND, Mr. HEFLIN, Mr. HATCH, Mr. REID, Mr. GORE, Mr. BRYAN, Mr. KOHL, Mr. PELL, Mr. LIEBERMAN, Mr. CRANSTON, Mr. HOLLINGS, Mr. GRAHAM, Mr. SANFORD, Mr. LEVIN, Mr. GLENN, Mr. GRASSLEY, Mr. DIXON, Mr. FORD, Mr. CONRAD, Mr. DODD, Mr. NUNN, Mr. ADAMS, Mr. EXON, and Ms. MIKULSKI):

S. 1338. A bill to amend title 18, United States Code, to protect the physical integrity of the flag of the United States; to the Committee on the Judiciary.

By Mr. BYRD:

S.J. Res. 179. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the desecration of the flag; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. DIXON, Mr. THURMOND, Mr. HEFLIN, Mr. WILSON, Mr. GRASSLEY, Mr. HATCH, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BOND, Mr. BOSCHWITZ, Mr. BREAUX, Mr. BRYAN, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DOMENICI, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GORTON, Mr. GRAMM, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PRESSLER, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SHELBY, Mr. SIMPSON, Mr. STEVENS, Mr. SYMMS, Mr. WALLOP, and Mr. WARNER):

S.J. Res. 180. Joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

(The remarks of Senators on the introduction of this legislation and the text of the legislation is printed earlier in today's RECORD.)

By Mr. COHEN (for himself and Mr. PRYOR):

S. 1339. A bill to amend title XIX of the Social Security Act to continue Medicaid financing of daytime habilitation services in certain States; to the Committee on Finance.

PRESERVING DAY HABILITATION SERVICES FOR THE DEVELOPMENTALLY DISABLED

Mr. COHEN. Mr. President, I am proud to introduce today legislation to protect day habilitation services currently being provided to developmentally disabled people in many States.

What are habilitation services? Habilitation services teach daily living skills to developmentally disabled people—individuals with mental retardation or related conditions. The people served by these programs live with their parents or in boarding homes. They can, if we continue to help, lead dignified lives outside of an institution. I would like to tell you about some of the people served by

this program in my home State of Maine.

I know of a man who is 24 years old and lives at home with his mother in Patten, ME. He was hit by a car at the age of 2 and was left brain damaged and physically disabled. He uses an electric wheelchair and does not have use of his arms or legs. He could only communicate by blinking before entering a habilitation program. Since taking part in a program run by the Green Valley Association, he has learned to communicate by pointing at objects or pictures on a board which he keeps in his lap. He can point toward the kitchen to say he wants food or toward the bathroom to communicate the need to use the toilet.

Another Mainer, a woman from Crystal, is now in a day habilitation program because of the effects of brain tumors. Twelve years ago, she was married, working as a bookkeeper and living in her own home. Unfortunately, however, the brain tumors left her unable to work or to live on her own and, when her husband died, she had to give up her home. She now lives in a boarding home and is learning daily living skills such as how to dress, bathe, and cook through the day habilitation program.

There are other people who are taken even further toward living independently through day habilitation programs. These people learn personal habits and how to control their behavior in order to be able to work. They also learn how to maintain a checking account, shop for groceries, and how to manage other activities that are part of being independent and self-sufficient.

Day habilitation programs in my State and many others give the developmentally disabled the means to live as fully and as freely as is possible for them. Without such day habilitation programs, the people I have just discussed may not have had the opportunity to learn to express or to help themselves. In some families with developmentally disabled children or dependents, breadwinners would have to quit jobs if there were no day habilitation services. For many developmentally disabled persons, the lack of habilitation services would leave them no choice but to reside in a large institution.

This legislation is needed to protect the developmentally disabled from being denied services which help them to live as independently and self-sufficiently as possible. The Health Care Financing Administration [HCFA] has approved many State Medicaid plans for the provision of day habilitation services to the developmentally disabled. However, HCFA is now claiming that its approval was a mistake in the cases of Arkansas, Massachusetts, and my home State of Maine—and is likely to make similar claims affecting programs in a number of other States as well. Indeed, I know that my colleague from Arkansas, Senator PRYOR, has been concerned by this matter and intends to pursue related legislation. I look forward to working with him and with other members of the Finance Committee in this regard. The bill that I am introducing today would protect programs already approved by HCFA until regulations are published that specify just what day habilitation services can and cannot receive Federal funding under the Medicaid Program.

I believe that this legislation is essential to ensure that the developmentally disabled do not have to pay for what may or may not be a mistake on the part of HCFA. Programs of day habilitation services allow the developmentally disabled to learn daily living skills. It is a humane and cost-effective way to provide the greatest degree of freedom to the developmentally disabled. By passing this legislation, we, in Congress, will be telling the mentally retarded and their families that we care about them. It will tell them that we will not force them to bear the pain of an arbitrary decision by a Federal agency. It will tell them that we will be providing the services that they depend on unless and until HCFA can justify why the Federal Government cannot pay for these services.

This legislation would go one step further. It would allow States which already operate day habilitation programs to convert their programs to make use of Medicaid home- and community-based waiver authority. In this way, those mentally retarded who already benefit from these valuable programs can continue to do so.

I believe it would be unfair to allow HCFA to deny funding for these programs without first having to publish regulations. I also believe that it would be shortsighted to deny services to those mentally retarded who have benefited from these programs. The mentally retarded and their families, however, are not the only ones who would benefit from this legislation. If maintaining these services will keep the mentally retarded from having to be institutionalized unnecessarily or will reduce the pressure to build more institutions, we all benefit.

There are, of course, more important benefits to continuing programs which help the developmentally disabled individuals to realize their fullest potential and self-sufficiency. These efforts give developmentally disabled individuals opportunity and hope. That is why we really cannot afford to retreat from these important efforts despite the fact that a Federal agency has made an abrupt and ill-considered about-face in interpreting the statutes governing the Medicaid Program. To the contrary, it behooves the Congress to go on record in support of the kind of work that day habilitation programs can accomplish by supporting this legislation and by pursuing further improvements in the Medicaid Program.

Mr. President, I urge my colleagues to support this legislation which would enable very worthwhile day habilitation programs to continue to help the developmentally disabled to live more fully and freely.

By Mr. SPECTER:

S. 1340. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide for an Inspector General of the Federal Bureau of Investigation; to the Committee on the Judiciary.

FEDERAL BUREAU OF INSPECTION INSPECTOR GENERAL ACT OF 1989

Mr. SPECTER. Mr. President, today I am reintroducing a bill which I first introduced on February 19, 1988, as S. 2076. This bill would amend the Inspector General Act of 1978 by including the creation of a statutory inspector general for the Federal Bureau of Investigation. This bill is being reintroduced at this time in light of the Intelligence Committee's report on the Committee in Solidarity with the People of El Salvador [CISPES].

In consonance with the 1978 act, this inspector general would be nominated by the President and confirmed by the Senate, similar to 24 other existing inspector generals in government today, and would have the authority and duty to inspect, investigate and audit—independently—every phase of the FBI's activities. The result of these inspections, investigations and audits would be reported to the Director of the FBI, the Attorney General, and to the appropriate committees of the Congress.

I believe this new office will well serve the FBI by promoting consistency in its interpretation and enforcement of existing guidelines for the investigation of Federal criminal acts and foreign espionage activities. Current allegations; that the Federal Bureau of Investigation in recent years may have overstepped its bounds by investigating a wide array of lawful domestic political and religious groups raises a fundamental question about the effectiveness of the FBI's current system of internal oversight. After all of the lessons of the past, it is startling that we still do not have in place a statutory inspector general as we do in so many other branches of Government, which in my view is essential to effective oversight.

Embarrassing episodes provide ammunition for critics of the FBI and of the U.S. Government, and realistically viewed undermines the activities of the FBI. We can be sure that the claims being leveled by some against the FBI are being widely circulated in the press in foreign countries and

being used to undermine the legitimate activities of the FBI. In Judge Webster, and now in Judge Sessions, we have selected FBI Directors who have a proven understanding of the Constitution and the rule of law, and a demonstrated respect for the principles of individual freedom upon which this country was founded.

But it is not possible for the Director of the FBI or any one individual to manage personally the vast oversight necessary for such an organization. Judge Webster was quoted as saying that certain activities invoking criticism of the FBI were not of a sufficient nature to come to his personal attention. That, Mr. President, is why additional oversight within an organization like the FBI is necessary.

I am personally convinced that, with extremely few exceptions, the men and women of the FBI share that respect for law of men like Judge Webster and Judge Sessions, and that the men and women are loyal, hardworking Americans who are dedicated to upholding the laws and Constitution. We owe them a debt of gratitude for their untiring fight against crime and their enormously successful efforts to counter the growing threat of domestic and international terrorism and foreign espionage.

I personally have had the opportunity to work with many members of the Federal Bureau of Investigation as assistant counsel for the Warren Commission in 1964. I also worked with members of the FBI on the preparation of complex cases as an assistant district attorney in Philadelphia and later for 8 years as district attorney. I know of their competence, their dedication, and their capability.

Sometimes, however, a complex organization does not work as designed because the design itself is flawed. We must build more checks and safeguards into our powerful government organizations so that we are not relying on one well-intentioned, but greatly overburdened, official at the top to keep an entire organization on course. We saw the problems of this structure with the CIA in the Iran-Contra affair. By creating independent inspectors general, we can ensure the trust and credibility we expect of our intelligence or law enforcement agencies like the FBI and the CIA and, in turn, our entire government.

It seems clear that there was a lack of overall direction in some of the FBI's investigations of domestic political and religious groups over the past several years. As recently as 1984, one FBI document reflected the views of the Denver and New Orleans FBI field offices that "in spite of attempts by the Bureau to clarify guidelines and goals for this investigation, the field is still not sure of how much seemingly legitimate political activity can be monitored." Why was there such confusion and what did the FBI do internally to address it? Who was watching the watchdogs, as they proceeded with their investigations, unsure of the bounds of the law?

More recently, at the instigation of the Senate, the FBI's Inspection Division undertook an internal investigation of the FBI's Terrorism Section's performance in investigating the Committee in Solidarity with the People of El Salvador [CISPES]. That report makes clear that if there were an effective system of management and administrative oversight in place for cases involving First Amendment rights, the Bureau's 1983-85 investigation of CISPES might have been avoided.

In 1982, the FBI's Inspection Division identified and reported deficiencies in the FBI's terrorism section's policy structure and training. While it recommended corrective action, those actions were not effectively implemented because of internal disagreement and the lack of a followup system by the Inspections Division which was designed to serve the Director in a management oversight role. This situation reflects weaknesses in a system where FBI actions could adversely impact the First Amendment rights of Americans. It would be difficult to state with a high degree of confidence that today's FBI Inspection Division would serve the role for which it was intended.

In November 1988, the General Accounting Office [GAO] noted some improvements in the FBI's inspection capabilities since 1979. Nonetheless, the GAO has recommended that the head of the FBI's Inspection Division be independent in order to ensure permanency in the position and to "avoid instances where leaders of the division may not be willing to report situations or make recommendations consistent with what should be done because of their concern about their future careers as a result of presenting bad news to the leadership." I agree with this statement for a number of reasons.

The legislative branch plays an important oversight role with respect to the FBI, but usually after the fact. Two congressional committees from each house of Congress have overlapping oversight responsibility for FBI activity. The two Judiciary Committees oversee FBI activity relating to criminal law enforcement, while the two intelligence committees oversee FBI activities relating to foreign counterintelligence and international terrorism. The dividing line is not always so neat, however, and many cases involve both of these spheres. The Attorney General's guidelines under which the FBI operates differ significantly depending on whether a criminal investigation or a foreign counterintelligence investigation is involved. The latter guideline is classified, and that is a matter which will be the subject of scrutiny and inquiry by the intelligence committees. The FBI's decision to use one guideline or the other determines which congressional committee will exercise oversight of the FBI involvement.

It is a complicated system, with many opportunities for things to go wrong. As we have seen, they do go wrong, even with strong leadership, and the largely post-facto congressional oversight which realistically viewed is structurally insufficient to catch and correct small errors of judgment and policy before they become on some occasions embarrassing disasters. Simply put, the FBI's authority is so great, its potential for abuse or miscalculation so high, and its organizational structure so complex that independent internal monitoring on a day-by-day basis is essential. This is the case with 108 other governmental agencies, and perhaps among that list the FBI would rank high in its requirement of, and the necessity for, an independent inspector general.

I feel very strongly that we in Congress should protect our intelligence and law enforcement agencies from being scapegoats for every policy failure or unsuccessful venture by our Government. We can only do this, however, if our constituents are confident that these agencies are adequately monitored—the public confidence is vital—and that we in Congress are willing to take steps to correct mistakes when they are made, and make structural changes in the designs of organizations like the FBI or CIA. The current system of oversight is inherently incapable of providing us with the information we need in order to do this.

Statutory inspectors general already are providing an independent internal system of checks and balances for 24 departments and agencies of the Federal Government. The Comptroller General, who inspects these IG's, has concluded that they are serving the executive and legislative branches far better than the IG's under the previous system, who were beholden to the system which they inspected. It is time to add the FBI to the list.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Bureau of Investigation Inspector General Act of 1989".

SEC. 2. OFFICE OF INSPECTOR GENERAL OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) SPECIAL PROVISIONS CONCERNING THE FEDERAL BUREAU OF INVESTIGATION.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 8E and 8F as sections 8F and 8G, respectively, and inserting after section 8D the following new section:

"SPECIAL PROVISIONS CONCERNING THE FEDERAL BUREAU OF INVESTIGATION

"SEC. 8E. (a)(1) Notwithstanding any other provision of this Act, the Inspector General of the Federal Bureau of Investigation shall be under the authority, direction, and control of the Director of the Federal Bureau of Investigation with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) intelligence or counterintelligence matters; or

"(E) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described in paragraph (1), the Director may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Director determines that such prohibition is necessary to prevent the disclosure of any information described in paragraph (1) or to prevent the significant impairment to the national interest of the United States.

"(3) If the Director exercises any power under paragraph (1) or (2), the Director shall notify the Inspector General of the Federal Bureau of Investigation in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General of the Federal Bureau of Investigation shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Federal Bureau of Investigation—

"(1) may initiate, conduct and supervise such audits and investigations in the Federal Bureau of Investigation as the Inspector General considers appropriate;

"(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department of Justice and the audit, internal investigative, and inspection units outside the Office of Inspector General of the Federal Bureau of Investigation with a view toward avoiding duplication and insuring effective coordination and cooperation; and

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice for investigation, information or allegations relating to the conduct of an officer or employee of the Federal Bureau of Investigation employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Bureau or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department of Justice.

"(c) Any report required to be transmitted by the Director of the Federal Bureau of Investigation to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The Inspector General Act of 1978 is amended.—

(1) in section 4(b)(2)—

(A) by striking out "section 8E(a)(2)" in each place it appears and inserting in lieu thereof "section 8F(a)(2) in each such place"; and

(B) by striking out "section 8E(a)(1)" and inserting in lieu thereof "section 8F(a)(2)"; and

(2) in section 8G (as redesignated in subsection (a) of this section)—

(A) by striking out "or 8D" and inserting in lieu thereof ", 8D or 8E"; and

(B) by striking out "section 8E(a)" and inserting in lieu thereof "section 8F(a)".

SEC. 3. TRANSFER OF FUNCTIONS.

Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (T) by striking out "and" at the end thereof; and

(2) by inserting at the end thereof the following new subparagraph:

"(V) of the Federal Bureau of Investigation, the division of such bureau referred to as the 'Inspection Division' and, notwithstanding any other provision of law, that portion of each of the divisions or offices of such bureau which is engaged in internal audit activities; and".

SEC. 4. FEDERAL BUREAU OF INVESTIGATION DEFINED AS AN ESTABLISHMENT.

Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1) by inserting "Federal Bureau of Investigation," after "Director of the"; and

(2) in paragraph (2) by inserting "the Federal Bureau of Investigation," after "the Federal Emergency Management Agency,".

SEC. 5. INSPECTOR GENERAL AS AN EXECUTIVE SCHEDULE LEVEL IV POSITION.

Section 5315 of title 5, United States Code is amended by inserting after the item relating to the Inspector General of the Small Business Administration the following new item:

"'Inspector General, Federal Bureau of Investigation'.".

By Mr. DECONCINI (for himself and Mr. CRANSTON):

S. 1341. A bill to provide for certain administrative authority and requirements relating to the Arizona Veterans Memorial Cemetery; to the Committee on Veterans' Affairs.

ARIZONA VETERANS MEMORIAL CEMETERY

● Mr. DECONCINI. Mr. President, as a member of the Senate Committee on Veterans' Affairs, I am introducing, along with my distinguished colleague, the chairman of the Veterans' Affairs Committee, Senator CRANSTON, an important bill to establish certain administrative authority and requirements for the Arizona Veterans Memorial Cemetery. Specifically, this bill would authorize the Department of Veterans Affairs to employ persons in connection with the Administration of this cemetery if they were employed the State of Arizona in that capacity at the State-run Arizona Veterans Memorial Cemetery on the day before the cemetery was transferred to the United States pursuant to section 346 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 541). In addition, this bill would require the Secretary of Veterans Affairs to prepare an operating budget plan for the administration of the cemetery for fiscal years 1989, 1990, and 1991, and submit such plans to the Committees on Veterans' Affairs of the Senate and House of Representatives.

Before I discuss the needs for the current proposal, I would like to express my deep appreciation and gratitude to the distinguished chairman and the ranking member of the Senate Committee on Veterans' Affairs, Senators CRANSTON and MURKOWSKI, without whose invaluable assistance the dream of a new national cemetery in Arizona could never have been realized. I would also like to give special thanks to my friend and distinguished colleague from Arizona, Senator MCCAIN, for all his hard work in the development of the original authorization for the incorporation of the Arizona Veterans Memorial Cemetery into the Nation Cemetery System. And I would be remiss if I did not mention invaluable contributions of House Committee on Veterans' Affairs Chairman SONNY MONTGOMERY and Representative BOB STUMP, that committee's new ranking member, in these efforts. Finally, I would like to thank all the Members of the Arizona delegation, both past and present, for their cooperation and support through the years on this issue.

Together we have traveled a long road since 1976 when the State of Arizona first appropriated funds for the development of a parcel of land in Maricopa County for use as a veterans' cemetery. Mr. President, the State of Arizona's Veterans Service Commission obtained the land for a cemetery in 1976, and the cemetery was then developed by the State with a Veterans' Administration [VA] grant pursuant to the 50/50 matching funds program in section 1008 of title 38, United States Code. The cemetery opened in May 1979 as the Arizona Veterans Memorial Cemetery and was operated by the State until 1989.

On May 22, 1988, section 346 of Public Law 100-322, which was based on legislation I authored, was enacted to provide for the transfer of the cem-

etery into the National Cemetery System. The transfer was effective on April 1, 1989, and the cemetery was then renamed "the National Memorial Cemetery of Arizona." It now operates as the 113th cemetery in the National Cemetery System.

Mr. President, when the transfer became effective, certain State of Arizona employees who had provided exceptional service to the facility when it was run by the State were nevertheless found to be ineligible for Federal employment because they were not Federal civil service employees and apparently did not test well on normal civil service standardized measures despite their specialized experience and expertise. This bill would authorize the Department of Veterans Affairs [DVA] to employ certain persons who had worked at the cemetery prior to its transfer into the National Cemetery System. Specifically, under this bill, DVA could employ such persons without regard to civil service requirements if they meet criteria and qualifications established by the Secretary.

In addition, this bill includes a reporting requirement regarding the funding of the operations of the cemetery. Under the provisions of section 346 of Public Law 100-322, the Secretary is prohibited, for 3 fiscal years, from obligating funds for the operation of the cemetery in excess of the greater of: First, the amount the Secretary estimates the DVA would have been required to pay under section 903(b)(1) of title 38—relating to payments to States in connection with the DVA $150 burial payment for each eligible veteran in a State cemetery—had the cemetery not been transferred; or second, the amount that VA paid to the cemetery in fiscal year 1987, which was $129,000, under that authority.

Our bill would require the Secretary to outline in an operating budget plan the anticipated sources of funds for the operation of the cemetery for each of fiscal years 1989, 1990, and 1991, and, to submit such plan each year to the Committees on Veterans' Affairs of the Senate and the House of Representatives. The plan for fiscal year 1989 would be due within 30 days after the enactment of this bill, the fiscal year 1990 plan would be due by October 1, 1989, and the fiscal year 1991 plan would be due by February 1, 1990. I believe this provision is necessary to ensure that DVA has a strategy for coping with the special funding constraints that will exist under section 346 through fiscal year 1991 and that effective service at this national cemetery is not interrupted by those constraints. If a funding shortfall is projected, because of these constraints, we need to know about it so that sources other than DVA funding can be sought and obtained.

Mr. President, enactment of this bill would help ensure that this most recent addition to the National Cemetery System is sufficiently funded for the next 3 fiscal years and that it is maintained and provides service in a manner that befits a U.S. national cemetery. I urge all of my colleagues to give their support to this measure.

Finally, I again thank my good friend, Senator CRANSTON, for his assistance and collaboration in the preparation of this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADMINISTRATION OF ARIZONA VETERANS MEMORIAL CEMETERY.

(a) APPOINTMENT OF EMPLOYEES.—The Secretary of Veterans Affairs may, without regard to laws relating to appointments in the competitive service, employ in a position in the Department of Veterans Affairs in connection with the administration of the Arizona Veterans Memorial Cemetery transferred to the Department pursuant to section 346 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 541) any person who (1) was employed by the State of Arizona in connection with the administration of such cemetery on the day before the date of the transfer, and (2) meets the criteria and qualifications established by the Secretary for employment in such position.

(b) OPERATING BUDGET PLAN.—(1) For each of the fiscal years 1989, 1990, and 1991, the Secretary of Veterans Affairs shall prepare an operating budget plan for the administration of the Arizona Veterans Memorial Cemetery referred to in subsection (a).

(2) The operating budget plan for a fiscal year shall include the anticipated sources of funds for such fiscal year, the Secretary's estimate of any budget deficit (taking into consideration the operating needs of the cemetery for such fiscal year and the limitations and requirements in section 346(f) of the Veterans' Benefits and Services Act of 1988), and the Secretary's estimate of the workload for such fiscal year.

(3) The Secretary shall transmit the budget operating plan for a fiscal year to the Committees on Veterans' Affairs of the Senate and the House of Representatives—

(A) in the case of fiscal year 1989, not later than 30 days after the date of the enactment of this Act;

(B) in the case of fiscal year 1990, not later than October 1, 1989; and

(C) in the case of fiscal year 1991, not later than February 1, 1990.●

By Mr. SANFORD:

S. 1342. A bill to suspend temporarily the duty on ranitidine hydrochloride; to the Committee on Finance.

SUSPENDING THE DUTY ON RANITIDINE HYDROCHLORIDE

Mr. SANFORD. Mr. President, I rise to introduce legislation to suspend temporarily the duty on N[2-[[[5-[(dimenthylamino)menthyl]-2-furanyl]menthyl]thio]ethyl]-N'-methyl-2-nitro-1, 1-ethenediamine, hydrochloride, also known as ranitidine hydrochloride.

Mr. President, this legislation affects imports of ranitidine hydrochloride, which is currently imported by one U.S. company, Glaxo Inc., which then uses this raw material in its U.S. manufacturing facility in order to produce the pharmaceutical product Zantac. Zantac is a very widely used product for treating ulcers.

Ranitidine hydrochloride is not currently produced in the United States; all ranitidine used for manufacture in the United States must be imported from abroad.

Payment of the current 3.7 percent ad valorem duty on ranitidine hydrochloride increases the cost of production for the only U.S. producer of Zantac.

Glaxo Inc. is a new entrant into the U.S. pharmaceutical market. In 1984, Glaxo completed construction of manufacturing facilities in Zebulon, NC and began processing imported ranitidine hydrochloride into Zantac tablets for sale in the U.S. market. Prior to that time, Glaxo imported Zantac tablets in finished form and marketed it to customers in the United States. Production of Zantac in the United States currently involves 500 to 600 American workers.

Glaxo Inc. manufacturing facilities are currently producing at full capacity in order to meet the growing demand for Zantac tablets in the United States. Unless capacity is expanded, this growing demand will force Glaxo to import once again the finished product from abroad. Glaxo will also have to import new dosage forms of Zantac in finished form unless it constructs new manufacturing facilities for processing these dosage forms for sale in the United States. Suspension of duty will reduce the cost of production of Zantac and allow resources to be used for the construction of much needed new manufacturing facilities, which will employ an estimated 80 to 160 additional workers.

Passage of legislation temporarily suspending duty on ranitidine hydrochloride would have a strong beneficial effect in the United States. Such legislation would suspend a duty that artificially increases a U.S. processing cost and would provide a financial incentive for a U.S. producer to increase the manufacture of the finished product in the United States rather than to import it from abroad. This in turn would increase jobs for American workers and enhance U.S. balance of payments.

Its duty level does not represent a conscious decision on the part of U.S. Congress as to what the particular tariff on ranitidine hydrochloride should be. Rather, it is merely one of

hundreds of chemicals included in the Harmonized Tariff Schedule 2932.19.50007.

Because there are no domestic producers of ranitidine hydrochloride, this bill would adversely affect no domestic interests. Duty suspension will lower the impact on the cost of production for Zantac without negatively affecting U.S. competition. Moreover, it would benefit considerably the Nation's interest in having Zantac produced by a U.S. manufacturer.

I urge my colleagues to support this bill as part of any tariff suspension legislation that comes before the Senate.

By Mr. WIRTH:

S. 1343. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

COLORADO WILDERNESS ACT OF 1989

● Mr. WIRTH. Mr. President, the purpose of my rising today is to introduce the Colorado Wilderness Act of 1989. This is a piece of legislation that has been long in discussion. We have been working on this off and on since the last CWA was passed in 1980. This is legislation that covers some 750,000 acres in 18 different areas of land in the State of Colorado, most of it very high country land in so-called headwaters areas, a few other regions that because of the wonderful forthcomingness of two or three landowners is lower areas of wilderness designation.

As we approach the 21st century, Mr. President, one of the most important issues that is emerging is the need for us to manage our public lands in something of a different way than we have in the past.

Historically, we have viewed those public lands for the purposes of extraction and now we are understanding that it is a good idea to look at those public lands with a goal of attraction in mind as well.

In other words, the economics of our public lands often point in very much of a different direction from the old extractive approach. Managing for wilderness is clearly one of those. Wilderness designations are very good for the economies of the surrounding areas. They draw people in and this is so important to my State of Colorado where tourism, recreation, skiing industry, hunting, fishing, rafting, and so on have become so much a major part of our economy.

The legislation in front of us not only identifies that 750,000 acres in 18 different parcels but it also reaches to a number of very significant water issues which have really bogged this legislation down for such a long period of time.

At issue here for the most part is an issue called the reserve water rights issue. The question is how much wilderness land if any deserves to have a reserve water right?

This is an issue that we in the West have been debating since the early part of the 20th century when the Winters doctrine came down from the Supreme Court identifying Indian reservations as having reserve water rights that came with that reservation.

Since that first decision by the Supreme Court reserve water rights has been expanded to include two or three other Federal properties as well. Now the issue is how much beyond Indian reservations—beyond various wildlife refuges, monuments and so on—how much water goes with wilderness areas? We have made after a process of long negotiation a number of concessions in this area identifying in the area of water that any water right from the Federal Government will go through the State water court; identifying that any issues at stake will be adjudicated by the State water engineer; identifying that any Federal water right will stand last in line in terms of the date of the designation of the wilderness—a whole variety of issues that are concessions I believe for an ability to solve this problem.

In addition, Mr. President, in this legislation we have solved the North Platte River wilderness issue. That came up as a result of the passage of the Wyoming wilderness bill in 1984. This legislation defines in two areas ways in which we resolve any water rights issues that may surround this legislation.

Finally, in the bill I have also been very careful to separate out the high country or headwaters area from the downstream area. What I proposed that we do in the Colorado wilderness bill is to follow the model that was successfully used by New Mexico, Arizona, Wyoming, and the State of Washington. But rather in this legislation, rather than trying to solve all the wilderness issues that exist downstream from the high country areas, the more flatland BLM land, to separate that out and leave it for another time.

We have no proposals coming from the administration as to what to do with this kind of flatland country. We have no proposals coming from anybody in the CWA delegation.

What I have done, as these other States have done, is separate out these downstream wilderness issues from the high country issues.

Let us protect the high country issues. Let us protect the high country wilderness now while we have the opportunity to do so before we have any more incursions, and protect this beautiful part of our legacy for our children, grandchildren, and all future generations.

Mr. President, Colorado is known across the country for the soaring peaks of our Rocky Mountains, the gold medal trout streams that flow from glaciers high in those mountains, and the bighorn sheep, cougar, bear, and elk that make their home in these wild lands. Coloradans take great pride in these wilderness lands, and overwhelming majorities of the people of my State are committed to the protection of this heritage for future generations.

When it was enacted into law in 1964, the Wilderness Act designated three wilderness areas in Colorado. In 1974, the Flat Tops Wilderness was established to protect a large tract of rugged mountains where the White and Yampa Rivers originate. The next year, Congress set aside the Eagles Nest Wilderness Area, which sits astride the rugged Gore Range.

And in 1978, countless Coloradans worked with me and the rest of the congressional delegation to find a compromise that enabled us to designate the Indian Peaks Wilderness just south of Rocky Mountain National Park. Today, Indian Peaks is one of the Nation's most heavily visited wilderness areas.

The watershed event for protecting Colorado's high elevation wild lands came with passage of the Colorado Wilderness Act of 1980. With one bill we added more than 1.4 million acres to the wilderness system. That legislation truly was a legacy to our children and grandchildren. But it left the question of whether to protect a number of important areas still unresolved.

That bill recognized that not enough was known about some of the still-undeveloped areas in our national forests to make final decisions on which should be designated as wilderness and which should be released for multiple-use management. Accordingly, the 1980 act established 12 wilderness study areas, and retained 6 areas in their administratively designated "further planning" status. The Forest Service was directed to study these areas during the ensuing 3 years to determine their suitability for wilderness.

Since 1983 members of the Colorado congressional delegation have been working to finish the work we began in 1980. Bills were introduced in the 98th Congress to designate certain areas as wilderness and to release others. But the Colorado wilderness bill passed by the House of Representatives foundered in the Senate on the question of whether, and how, wilderness water resources should be managed. Legislation introduced in the 99th Congress met a similar fate.

One of my highest priorities, as a newly elected Member of this body, was to find a way to break the impasse

in Colorado over wilderness water resources so that we could get on with the job we began in 1980. In 1987, I joined with the senior Senator from Colorado in asking a number of distinguished Coloradans to attempt to resolve the dispute over wilderness water rights.

Two negotiating teams, representing conservationists and water resource developers, met at least nine times in an effort to find a compromise. Smaller teams of negotiators met many times more.

In months of hard work, these negotiating teams identified the salient issues, and made significant progress in narrowing their differences. At times, it seemed as if they were close to agreement. Ultimately, however, they deadlocked over lands that have nothing to do with the study areas that were identified in the 1980 act: Low elevation lands which the Bureau of Land Management [BLM] is studying for possible future designation as wilderness.

In March, I circulated among the two negotiating teams and many other Coloradans a comprehensive proposal for resolving the dispute over wilderness water resources. My proposal was designed to integrate water rights for wilderness into the State water rights system, so that existing water rights would be fully protected, while also providing a measure of protection for the proposed wilderness areas. No one was entirely satsified by that proposal—a sure sign of a compromise—but representatives of both sides to the dispute suggested that it might provide the framework for a solution that would enable us to complete wilderness legislation for Colorado's forested, high mountain, headwaters areas.

Unfortunately, a few weeks ago some members of the water resource development negotiating team rejected that approach. Instead, they repeated their demand that any wilderness legislation for Colorado's high elevation headwaters areas must also address the question of water rights within BLM areas that may someday be recommended for wilderness—despite the near impossibility of finding a way to bind future Congresses to resolve a problem of, as yet, unknown dimensions.

At the risk of belaboring this issue, I want to emphasize that the BLM has not yet made any recommendations to the President for wilderness on Colorado's low elevation BLM lands. The President has transmitted no proposals to the Congress. Indeed the BLM is still conducting the studies needed to determine which areas are suitable for wilderness. As a result, we do not know today what areas will someday be recommended for wilderness, or when those recommendations will be received. Neither do we know what, if any water resource conflicts will be implicated by those recommendations.

Over the past few weeks, it has become clear to me that while the negotiating teams were able to substantially narrow their differences, the negotiating teams had become deadlocked on the issue of BLM wilderness areas. As a result, I concluded that the time has now come to draft legislation that codifies the progress that has been made and strikes a fair balance—legislation that protects existing water rights but which also recognizes that, where it is found in these high mountain areas, water is a vital part of the wilderness environment we are trying to protect. I believe that the legislation I am introducing today achieves those dual objectives.

Before I describe that compromise on water rights, I want to take a few moments to describe the heart of this legislation.

The Colorado Wilderness Act of 1989, which I am introducing today, would add 751,260 acres of high mountain land to the wilderness system.

This bill includes popular recreation areas such as Lost Creek, an 11,000-acre addition to the Lost Creek Wilderness not far from the Denver metropolitan area. This bill also includes the limestone escarpment of Fossil Ridge, with its alpine lakes and steep forested slopes.

And this bill would preserve the lion, lynx, ptarmigan, and cutthroat trout habitat of the Spruce Creek addition to the Hunter-Fryingpan Wilderness. Just a few short weeks ago, my wife and I had the opportunity to ride through a small part of that area, and we were struck by its beauty, solitude, and ruggedness.

These areas, and others—especially the Sangre de Cristo Mountains, perhaps the most significant new area proposed in this bill—deserve to be protected as wilderness. They are a crucial part of our heritage as Coloradans. And they are becoming ever more important as a foundation of Colorado's economy, where recreation is now the second largest, and fastest growing, industry. Preserving these areas is good environmental policy. It is also good economic policy.

Mr. President, in 1964 we began the process of protecting Colorado's wild, pristine mountain lands. In 1980, we took a giant step forward, but we deferred some key decisions. Now, 25 years after the United States pioneered the idea of legislatively protected wilderness areas, it is time to finish the task we began with passage of the Colorado Wilderness Act of 1980. The one remaining obstacle is finding a fair solution to the water rights dispute. I believe my legislation provides a fair and reasonable solution that fits the needs of Colorado, the desires of its citizens to see its wilderness resources protected, and the specific circumstances of our State's water laws and its hydrology.

The bill I have drafted would:

First, specifically recognize that this is a "headwaters only" bill and would raise no conflicts with upstream water rights. My staff and I carefuly reviewed maps of past proposals for wilderness, and we modified boundaries where that was necessary, to eliminate such conflicts with upstream water users;

Second, expressly reserve water for the headwaters wilderness areas while waiving implied reserved wilderness rights for these areas;

Third, require the Federal Government to stand in line like all other water users, by giving the Federal Government a water right that is junior to all existing water rights;

Fourth, require the adjudication of these wilderness water rights in State water court;

Fifth, provide that nothing in this bill will affect the interstate water compacts that protect Colorado's water;

Sixth, provide that wilderness rights on the North Platte River cannot be asserted to diminish the State's ability to use its full share of water from that river, to resolve the concerns of North Platte water users;

Seventh, reiterate that nothing in this bill will alter previously enacted legislation concerning the Homestake II project and the Hunter-Fryingpan project; and

Eighth, retain two other areas, encompassing 62,240 acres, in a protective study status while the Forest Service and other agencies evaluate potential water resource conflicts in those areas.

To the best of my understanding, this proposal responds to all of the concerns that were raised over the past 2 years of negotiations. No one comes out a winner. The conservationists will have to give some ground under this proposal, and so will the water resource development interests.

But I believe this is a fair and responsible solution to an issue that has, for nearly 6 years, stalled wilderness legislation in Colorado. This is a Colorado solution to a Colorado problem, since it respects existing water rights, protects the State's ability to develop water resources for economic development, and integrates well with the State's existing system for managing water resources.

Mr. President, the only issue this proposal does not resolve is how we will address water resource conflicts that may be implicated by future legislation for BLM areas. I understand that such proposals may raise far more serious concerns about water resource conflicts than does today's legislation. And I am committed to finding a consensus in Colorado on these

issues when the Congress receives the President's proposals for BLM wilderness in Colorado.

But we can not today foresee what problems we will encounter in 1992, or whenever those proposals are received by the Congress. The citizens of Colorado have been waiting patiently since 1980 to finish the job of protecting our high mountain wild lands. With each passing day, the threats to those areas increase. No one identified any water resource conflicts in these areas, despite years of debate and negotiation.

There is, in short, no reason to delay and every reason to proceed. The time for action has arrived—and I hope that 1989 will be the year we pass the next installment in Colorado's legacy to the future.

At this point, Mr. President, I ask unanimous consent to have printed in the RECORD the text of my bill and a section-by-section analysis of that bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.—This Act may be cited as the "Colorado Wilderness Act of 1989."

TITLE I—ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM

SEC. 101. (a) In furtherance of the purposes of the Wilderness Act, the following lands in the State of Colorado are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the San Isabel National Forest, which comprise approximately fifty-eight thousand one hundred sixty acres, as generally depicted on a map entitled "Buffalo Peaks Wilderness—Proposed," dated July 1989, and which shall be known as the Buffalo Peaks Wilderness;

(2) certain lands in the Uncompahgre National Forest and in the Bureau of Land Management Gunnison Basin Resource Area, which comprise approximately sixty-nine thousand nine hundred forty acres, as generally depicted on a map entitled "Cannibal Plateau Wilderness—Proposed," dated July 1989, and which shall be known as the Cannibal Plateau Wilderness;

(3) certain lands in the Routt National Forest, which comprise approximately thirty-six thousand acres, as generally depicted on a map entitled "Davis Peak Additions to the Mount Zirkel Wilderness—Proposed," dated July 1989, and which are hereby incorporated in and shall be deemed a part of the Mount Zirkel Wilderness as designated by Public Law 88-577;

(4) certain lands in the Gunnison National Forest, which comprise approximately fifty-five thousand five hundred sixty acres, as generally depicted on a map entitled "Fossil Ridge Wilderness—Proposed," dated July 1989, and which shall be known as the Fossil Ridge Wilderness;

(5) certain lands in the San Isabel National Forest, which comprise approximately twenty-four thousand one hundred thirty acres, as generally depicted on a map entitled "Greenhorn Mountain Wilderness—Proposed," dated July 1989, and which shall be known as the Greenhorn Mountain Wilderness;

(6) certain lands in the Pike National Forest and in the San Isabel National Forest, which comprise approximately eleven thousand acres, as generally depicted on a map entitled "Lost Creek Wilderness Additions—Proposed," dated July 1989, and which are hereby incorporated in and shall be deemed a part of the Lost Creek Wilderness as designated by Public Law 96-560;

(7) certain lands in the Gunnison National Forest, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled "O Be Joyful Additions to the Raggeds Wilderness—Proposed," dated July 1989, and which are hereby incorporated in and shall be deemed a part of the Raggeds Wilderness as designated by Public Law 96-560;

(8) certain lands in the Arapahoe National Forest, which comprise approximately twenty-four thousand one hundred sixty acres, as generally depicted on a map entitled "St. Louis/Vasquez Peaks Wilderness—Proposed," dated July 1989, and which shall be known as the St. Louis/Vasquez Peaks Wilderness.

(9) certain lands in and adjacent to the Rio Grande and San Isabel National Forests, which comprise approximately two hundred fifty-two thousand eighty acres, as generally depicted on a map entitled "Sangre de Cristo Wilderness—Proposed," dated July 1989, and which shall be known as the Sangre de Cristo Wilderness;

(10) certain lands in the Routt National Forest, which comprise approximately fifty-four thousand seven hundred acres, as generally depicted on a map entitled "Service Creek Wilderness—Proposed," dated July 1989, and which shall be known as the Service Creek Wilderness;

(11) certain lands in the San Juan National Forest, which comprise approximately thirty-two thousand eight hundred acres, as generally depicted on a map entitled "South San Juan Additions Wilderness—Proposed," dated July 1989, and which are hereby incorporated in and shall be deemed a part of the South San Juan Wilderness as designated by Public Law 96-560;

(12) certain lands in the San Isabel National Forest, which comprise approximately nineteen thousand five hundred seventy acres, as generally depicted on a map entitled "Spanish Peaks Wilderness—Proposed," dated July 1989, and which shall be known as the Spanish Peaks Wilderness;

(13) certain lands in the White River National Forest, which comprise approximately eight thousand acres, as generally depicted on a map entitled "Spruce Creek Additions to the Hunter-Fryingpan Wilderness—Proposed," dated July 1989, and which are hereby incorporated in and shall be deemed a part of the Hunter-Fryingpan Wilderness as designated by Public Law 95-327;

(14) certain lands in the San Juan National Forest, which comprise approximately eight thousand six hundred fifty acres, as generally depicted on a map entitled "Weminuche Wilderness Additions—Proposed," dated July 1989, and which are hereby incorporated in and shall be deemed a part of the Weminuche Wilderness as designated by Public Law 93-632;

(15) certain lands in the San Juan National Forest, which comprise approximately twenty-two thousand one hundred ten acres, as generally depicted on a map entitled "West Needles Wilderness—Proposed," dated July 1989, and which shall be known as the West Needles Wilderness;

(16) certain lands in the Rio Grande National Forest, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Wheeler Peak Additions to the La Garita Wilderness—Proposed," dated July 1989, which are hereby incorporated in and shall be deemed a part of the La Garita Wilderness as designated by Public Law 88-577;

(17) certain lands in the Arapahoe National Forest, which comprise approximately forty thousand acres, as generally depicted on a map entitled "Williams Fork Wilderness—Proposed," dated July 1989, and which shall be known as the Williams Fork Wilderness: *Provided, however,* That subject to valid existing rights, that part of the Williams Fork Further Planning Area as generally depicted on said map and which is not designated part of the Williams Fork Wilderness by this Act, shall be managed until Congress determines otherwise to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided further,* That no right, or claim of right, to the diversion and use of water from the Williams Fork Further Planning Area by the Board of Water Commissioners of the city and county of Denver shall be prejudiced, diminished, altered, or affected by this section, and this section shall not be construed to impair, impede, or interfere with the exercise of such rights, including the exercise of such rights in a manner affecting the Williams Fork Further Planning Area's presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System; and

(18) certain lands in the Bureau of Land Management Gunnison Basin Resource Area, which comprise approximately three thousand nine hundred acres, as generally depicted on a map entitled "American Flats Additions to the Big Blue Wilderness—Proposed," dated July 1989, and which are hereby incorporated in and shall be deemed a part of the Big Blue Wilderness as designated by Public Law 96-560.

TITLE II—WATER RIGHTS

SEC. 201. (a) FINDINGS.—The Congress finds and declares that—

(1) where it exists in wilderness, water is vital to those natural values and recreation uses that wilderness, as defined by this Act and the Wilderness Act (78 Stat. 890), is meant to provide for and preserve;

(2) the wilderness areas designated by this Act are situated at the headwaters of streams in the State of Colorado;

(3) the express reservation of water for wilderness areas designated by this Act will not diminish the presently adjudicated valid existing appropriative water rights within or upstream of the areas designated as wilderness by this Act;

(4) the express reservation of water for wilderness areas designated by this Act will not diminish valid existing or future appropriative rights located downstream of the exterior boundaries of the areas designated wilderness by this Act and will benefit such rights as maintaining existing stream flows and preserving the natural ecosystems of the watersheds;

(5) the express reservation of water for areas designated wilderness by this Act will not diminish the State of Colorado's right to use those quantities of water apportioned pursuant to interstate compacts and equitable decrees of the United States Supreme Court;

(6) the express reservation of water for areas designated wilderness by this Act is in lieu of the rights that would otherwise be reserved by implication when areas are included in the National Wilderness Preservation System;

(7) the Federal water rights reserved by this Act shall be in addition to express or implied water rights previously reserved by the United States for purposes other than wilderness; and

(8) Except as provided in subsection 201(b), this Act is not intended to determine the existence or scope of any express or implied reserved water rights created in or arising from other Federal legislation.

(b) DETERMINATION.—(1) Therefore, the Congress determines and directs that the United States reserves a quantity of water sufficient to fulfill the purposes of the wilderness areas created by this Act,

(2) For the purposes of state water rights administration, the priority date of the water rights reserved in this section shall be the date of enactment of this Act.

(3) The Secretary shall, no later than two years after the date of enactment of this Act, file a claim for the adjudication of the water rights reserved by this section in appropriate proceedings in the courts of the State of Colorado pursuant to the provisions of 43 U.S.C. 666, and shall take all steps necessary to protect such rights in such adjudication.

(4) Nothing in this Act shall be deemed to alter or modify any interstate compact or equitable decree of the United States Supreme Court, effecting the allocation of water between or among the State of Colorado and other states.

(5) Notwithstanding anything contained in this Act or any prior Acts of Congress to the contrary, the United States shall not assert reserved water rights to waters in the North Platte River for purposes of the North Platte Wilderness Area located on the Colorado-Wyoming state boundary, to the extent such rights would prevent the use or development by present and future holders of valid water rights of Colorado's full apportionment of interstate waters within the State of Colorado pursuant to interstate compact or equitable decrees of the United States Supreme Court: *Provided,* That nothing herein shall excuse the Secretary from promptly adjudicating those rights in appropriate stream adjudications.

(6) The Congress hereby reaffirms Section 102(a)(5) of Public Law 96-560 (94 Stat. 3266) and the last sentence of Section 2(e) of Public Law 95-237 (92 Stat. 41).

(7) Nothing in this Act shall be construed as a precedent for the designation of future wilderness areas in the State of Colorado or any other state.

TITLE III—WILDERNESS STUDY AREAS

SEC. 301. (a) The following lands in the State of Colorado are hereby designated as wilderness study areas:

(1) certain lands in the San Juan National Forest, which comprise approximately sixty thousands acres, as generally depicted on a map entitled "Piedra Wilderness Study Area—Proposed," dated July 1989; and

(2) certain lands in the San Juan National Forest, which comprise approximately two thousand two hundred forty acres, as generally depicted on a map entitled "Purgatory Flats Wilderness Study Area—Proposed dated July 1989.

(b)(1) The Secretary of Agriculture, in conjunction with the Colorado Water Conservation Board and other appropriate state and federal agencies, shall, within two years after the date of enactment of this Act, conduct and transmit to the Congress a comprehensive study of (i) the wilderness values that are supported by streams areas that arise upon or flow through such wilderness study areas and necessary flow for the protection of wilderness values on streams within such wilderness study areas; (ii) the potential for the development of water resources on stream segments upstream of such wilderness study areas; (iii) a range of alternatives for protecting water resources within such wilderness study areas, including recommendations of the Colorado Water Conservation Board; and (iv) the effect such alternatives would have on private rights to develop water resources upstream of such wilderness study areas pursuant to state law.

(2) In conducting the study, the Forest Service shall hold at least one public hearing in the vicinity of each of the wilderness study areas designated by this Act and at least of the wilderness study areas designated by this Act and at least one hearing in the Denver metropolitan area, and shall request from interested public agencies and individuals recommendations on protecting instream flow values within such wilderness study areas.

(d) The wilderness study areas designated by this Act, shall, until Congress determines otherwise, be managed by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designaged as wilderness by that Act: *Provided, however,* That on Federal water rights, express or implied, are established by enactment of this section.

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture and the Secretary of the Interior, as appropriate, shall file the maps referred to in this Act and legal descriptions of each wilderness area and wilderness study area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as it included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture or the Secretary of the Interior, as appropriate, in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 890) governing areas designated by that Act as wilderness areas, expect that, with respect to any area designated in this Act, and reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 402. REPEAL OF WILDERNESS STUDY AREA MANAGEMENT RESTRICTIONS.—Section 2(e) of Public Law 95-237 is amended by deleting the fourth sentence of that subsection and Public Law 96-560 is amended by deleting subsections 105(c) and 106(b) of that Act.

SEC. 403. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation Program (RARE II);

(2) the Congress has made its own review and examination of National Forest System roadless areas in Colorado and of the environmental impacts associated with alternative allocations of such areas;

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to National Forest System lands in states other than Colorado, such statement shall not be subject to judicial review with respect to National Forest System lands in the state of Colorado;

(2) with respect to National Forest System lands in the State of Colorado which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II) and those lands referred to in subsection (d), except those lands remaining in wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1976 (Public Law 94-588), as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that the conditions in a unit have significantly changed;

(3) areas in the State of Colorado reviewed in such final environmental impact statement or referenced in subsection (d) and not designated wilderness or remaining in wilderness study upon enactment of this Act, except for the Williams Fork Further Planning Area, shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976; *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Colorado are implemented pursuant to section 6 of the Forest and Land Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law;

(5) unless expressly authorized by Congress, the Department of Agriculture shall

not conduct any further statewide roadless area reviews and evaluation of national forest system lands in the State of Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an amendment to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Colorado which are less than five thousand acres in size.

SECTION-BY-SECTION ANALYSIS OF THE COLORADO WILDERNESS ACT OF 1989

Section 1—Provides that the Act may be referred to as the "Colorado Wilderness Act of 1989."

TITLE I—ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM

Section 101(a)—Provides for the designation of 18 new wilderness areas, totaling 751,260 acres. The areas are:

1. Buffalo Peaks Wilderness—San Isabel NF—58,160 acres
2. Cannibal Plateau Wilderness—Uncompahgre NF—69,940 acres
3. Davis Peak Additions to the Mt. Zirkel Wilderness—Routt NF—36,000 acres
4. Fossil Ridge Wilderness—Gunnison NF—55,560 acres
5. Greenhorn Mountain Wilderness—San Isabel NF—24,130 acres
6. Additions to the Lost Creek Wilderness—Pike NF—11,000 acres
7. O Be Joyful Additions to the Raggeds Wilderness—Gunnison NF—5,500 acres
8. St. Louis/Wasquez Peaks Wilderness—Arapahoe NF—24,160 acres
9. Sangre de Cristo Wilderness—Rio Grande and San Isabel NFs—252,080 acres
10. Service Creek Wilderness—Routt NF—54,700 acres
11. Additions to the South San Juan Wilderness—San Juan NF—32,800 acres
12. Spanish Peaks Wilderness—San Isabel NF—19,570 acres
13. Spruce Creek Additions to the Hunter-Fryingpan Wilderness—White River NF—8,100 acres
14. Additions to the Weminuche Wilderness—San Juan NF—8,650 acres
15. West Needles Wilderness—San Juan NF—22,110 acres
16. Wheeler Additions to the La Garita Wilderness—Rio Grande NF—25,000 acres
17. Williams Fork Wilderness—Arapahoe NF—40,000 acres
18. American Flats Additions to the Big Blue Wilderness—Gunnison Basin BLM—3,900 acres

TITLE II—WATER RIGHTS

Section 201(a). Sets out Congressional findings as follows:

(1) Water is vital to the natural values and recreational uses of wilderness areas;

(2) The areas designated wilderness by this bill are headwaters areas;

(3) The reservation of water rights to protect wilderness values in these areas will not diminish any existing water rights;

(4) Water rights to protect these wilderness areas cannot take any water away from present or future water rights downstream of these areas, and can benefit such rights by protecting watershed values upstream of them.

(5) Express reservation of water for wilderness areas will not diminish the State of Colorado's rights to use all the water it is entitled to under interstate compacts and decrees of the U.S. Supreme Court.

(6) Express reservation of water for wilderness in this bill is in lieu of water rights that otherwise would, according to the courts, be reserved by implication when wilderness is designated.

(7) The water rights reserved by this Act shall be in addition to other, previously reserved by the United States.

(8) This bill is not intended to determine the existence or scope of any reserved water rights created in or arising from any other federal legislation.

Section 201(b).—Provides the following directions regarding water rights for the protection of the wilderness areas created in this bill:

(1) Directs the express reservation of water sufficient to fulfill the purposes of the wilderness areas created by the bill.

(2) Provides that for purposes of administration by the state, the priority date of water rights reserved in this bill be the date of its enactment into law.

(3) Requires the Secretary of Agriculture to file claims for such rights in state court within two years.

(4) Provides that nothing in this bill shall change any interstate water compact or allocation of water amongst the States by the U.S. Supreme Court.

(5) Provides that the federal government cannot assert any claim to reserved water rights for the North Platte Wilderness on the Colorado/Wyoming border which would prevent the development of Colorado's full apportionment of water as provided by interstate compact or decree of the U.S. Supreme Court.

(6) Reaffirms previous legislation concerning water development projects and wilderness areas in Colorado.

(7) Provides that nothing in this bill shall be construed as a precedent for the designation of future wilderness areas in Colorado or any other state.

TITLE III—WILDERNESS STUDY AREAS

Section 301(a). Designates two wilderness study areas. They are:

(1) Piedra Wilderness Study Area—San Juan NF—60,000 acres

(2) Purgatory Flats Wilderness Study Area—San Juan NF—2,200 acres

Section 301(b). Requires the Forest Service, working with the Colorado Water Conservation Board and others, to study:

(1) The need for water to protect wilderness values in these areas.

(2) The potential for water development in stream segments upstream of these areas which might be affected by the creation of water rights for wilderness protection there.

(3) A range of alternative ways to protect the water resources in these areas.

(4) The effects of each such alternative on private rights.

Section 301(c). Provides that these wilderness study areas will be managed as if they had been designated wilderness, except that no federal water rights are established by this protection.

TITLE IV—ADMINISTRATIVE PROVISIONS

Section 401(a). Provides for the filing and availability to the public of maps containing the official boundaries of the wilderness and wilderness study areas designated in this bill.

Section 401(b). Provides for administration of the areas designated wilderness by this bill under the provisions of the Wilderness Act of 1964, subject to valid existing rights.

Section 402. Repeals wilderness study area designations made in prior Acts of Congress.

Section 403. Releases the Forest Service from obligation to study for wilderness, or to protect the wilderness characteristics of, areas not designated wilderness by this bill. This is the "release language" which has been incorporated in every Forest Service wilderness bill passed by the Congress following the Forest Service RARE II nationwide wilderness study, which was completed in 1979.●

By Mr. DODD:

S. 1344. A bill to amend the Internal Revenue Code of 1986 to allow insurance companies to be consolidated with noninsurance companies; to the Committee on Finance.

REMOVING LIMITATIONS ON THE USE OF TAX CONSOLIDATION BY LIFE INSURANCE COMPANIES

● Mr. DODD. Mr. President, today I am reintroducing legislation to rectify an inequity in current law which prevents life insurance companies from making use of consolidated tax returns in the same manner as other corporations. I hope that the Senate will be able to address the bill this year.

While the different tax treatment was justified some time ago because of other special income tax rules for life insurance companies, those reasons are no longer valid since the passage of the Deficit Reduction Act of 1984, the Tax Reform Act of 1986, and the Omnibus Budget Reconciliation Act of 1987. Moreover, the present limitation on tax consolidation has the effect of diminishing overall capacity in the insurance industry, to the disadvantage of consumers.

The legislation I am introducing today would repeal certain provisions of the Internal Revenue Code to remove limitations on the use of tax consolidation by life insurance companies. It would treat life insurance companies the same as all other corporations.

Let me describe the background and purpose of the legislation in more detail.

BACKGROUND AND PURPOSE OF THE LEGISLATION

Prior to the Tax Reform Act of 1976, life insurance companies, unlike other corporations, could not join in the filing of a consolidated return that included other types of corporations. The 1976 legislation partially lifted the ban against life-nonlife consolidation for taxable years beginning after 1980.

While the 1976 legislation accorded life insurance companies a greater measure of the consolidation treatment permitted for other corporations, it stopped short of parity, limiting the extent to which losses of companies not taxed as life insurance companies may be used against the income of a life insurance company in arriving at consolidated taxable income. Thus, under current law, the amount of loss which may be so used is limited to the

lesser of 35 percent of such loss or 35 percent of the income of the life insurance company members. In addition, no life insurance company may join in the consolidated return until it has been a member of the affiliated group for 5 years, and no loss of a company not taxed as a life insurance company may be used against the income of a life insurance company until the 6th year in which such companies have been members of the affiliated group.

These restrictions were based primarily on the fact that life insurance companies were taxed under special rules that differed from those applicable to other types of companies. However, changes under the Deficit Reduction Act of 1984 have made the tax provisions applicable to life companies comparable to those applicable to other corporations. Since other substantial changes were made under the Tax Reform Act of 1986 and the 1987 Reconciliation Act to assure that all insurance companies are taxed on their full economic income, there is no longer any reason to deny to life-nonlife affiliated groups the full tax consolidation treatment that is generally available. Therefore, the bill would simply remove the existing restrictions on such consolidation.

Mr. President, I ask unanimous consent that the full text of the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSOLIDATION OF INSURANCE COMPANIES WITH NONINSURANCE COMPANIES PERMITTED.

(a) IN GENERAL.—Section 1504(b) of the Internal Revenue Code of 1986 (defining includible corporation) is amended by striking out paragraph (2).

(b) CONFORMING AMENDMENTS.—

(1) Section 1503 of such Code (relating to computation and payment of tax) is amended by striking out subsection (c) thereof.

(2) Section 1504 of such Code (relating to definitions) is amended by striking out subsection (c).

SEC. 2. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after December 31, 1988.

(b) TRANSITIONAL RULE.—The amendments made by this Act shall not apply to—

(1) the carryover of a loss or credit from a taxable year beginning before January 1, 1989, to a taxable year beginning on or after January 1, 1989, or

(2) the carryback of a loss or credit to a taxable year beginning before January 1, 1989.●

By Mr. GORE:

S. 1345. A bill to provide for the continuous assessment of critical trends and alternative futures; to the Committee on Governmental Affairs.

CRITICAL TRENDS ASSESSMENT ACT

● Mr. GORE. Mr. President, during the 99th Congress I introduced a bill that would get the Federal Government to do something it rarely does in-depth—consider the future. The idea behind that bill—the Critical Trends Assessment Act—was to gather the vast array of complex information about trends in our society and throughout the world economy and environment and put it to work in public policy decisionmaking.

Four years later, the reasons behind that legislative initiative are even more compelling. Today I am reintroducing the Critical Trends Assessment Act, and encourage my colleagues to consider its case.

We often lurch from one crisis to another. Meanwhile, new problems bubble beneath the surface for years and we barely recognize them in our preoccupation with the present day's crisis. Then, suddenly, they burst forth, in the form of global warming, the savings and loan catastrophe, energy supplies and prices, or trade imbalances.

For example, we thought for years that the Earth contained inexhaustible resources and could cope with whatever abuses we heaped on it and into it. We have since discovered the enormous quantity of toxic wastes oozing into our water supplies. We learned about soil erosion and later about finite fossil fuel resources.

And, in perhaps the best case of inadequate planning in the history of mankind, we now face problems and implications of global environmental change that threaten the planet's very survival.

During the 1970's, our country's energy picture was severely distorted first by lower supplies, then by higher prices. Demand eventually dropped and we were sent reeling by having to pay for powerplants we no longer needed.

As baby boomers matured and entered the working world, school enrollment dropped and schools closed in their wake. Now, the baby boomers are having children of their own and we find a shortage of elementary schoolteachers that we could have anticipated but failed to do so.

These examples are only the tip of the iceberg.

Sometimes when we try to glimpse into the future we get more confused than when we started. Computer models in executive agencies often develop conclusions that are widely inconsistent with one another. Deregulation, understaffing, and the Paperwork Reduction Act have taken their toll, reducing the quality of Federal data available on some issues.

Our shortsightedness does not necessarily result from the fact that we aren't doing enough studies or collecting enough information. From the Census Bureau to the Social Security Administration, the Federal Government often seems awash in statistics.

But what are we doing with all this information? How are we, as elected leaders, assessing today the critical trends that tomorrow will become crisis and the day after require our immediate response?

It is this institutional shortsightedness that creates a renewed justification for the Critical Trends Assessment Act. The bill would provide for the continuous assessment of critical trends and alternative futures.

Mr. President, I am aware that initiatives which threaten the status quo of decisionmaking are sometimes controversial. Shortly after this century began, in fact, President Theodore Roosevelt created a national Commission to study the future of the country's natural resources. The group met with congressional opposition to "government by commission" and eventually wilted.

The Critical Trends Assessment Act would not constitute government by commission. The Office it would create would not usurp powers from any Federal agency. It would not be a method to involve centralized planning into the Federal Government.

The Office created by this bill would be a mechanism to encourage useful debate among people in the Federal Government as well as in the private sector, focusing our attention beyond immediate concerns, making us better prepared for the future.

Specifically, the bill would establish within the Executive Office of the President an Office of Critical Trends Analysis, with a $5 million annual budget. The Office would be authorized to advise the President "of the potential effect of Government policies on critical trends and alternative futures."

The Office would produce, every 4 years, an "Executive Branch Report on Critical Trends and Alternative Futures." The Joint Economic Committee of Congress would produce a similar report, with its own findings, every 2 years.

Both reports would be expected to identify and analyze critical trends and alternative futures for the next 20 years in light of economic, technological, political, environmental, demographic and social causes and consequences. They would analyze these trends based on current conditions, evaluate current Government policies and consider any alternative approaches.

The Advisory Commission on Critical Trends Analysis would be created with executive, congressional, and private sector representation. The Advisory Commission would assist the Office and promote public discussion of critical trends.

I have seen the value of getting Congress to look to the future. Six years ago the Congressional Clearinghouse on the Future, which I chaired, published a "Future Agenda" as seen by committees and subcommittees to focus beyond day-to-day concerns and look at long-term trends.

We know that land fueled the agricultural revolution and capital fueled the industrial revolution. There is growing awareness that information is fueling our present revolution.

But what are we doing with it? We are gathering data, we are making studies and we are shoving it all aside so we can handle the crises of the present day.

I think Congress and the White House can show more foresight than that. I urge my colleagues to support the Critical Trends Assessment Act.

I ask unanimous consent that the entire text of the bill appears in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Critical Trends Assessment Act".

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds and declares that—

(1) the growing complexity and interdependence of the modern world, exhibited by such issues as global environmental change, homelessness, Third World debt, and others, require that national decision machinery be capable of identifying long-term changes affecting the national welfare and that it bring these factors to bear upon public policy;

(2) while the Government has available to it enormous information resources, there is a need to integrate existing capabilities to provide a systematic and comprehensive use of that information to guide policymakers concerning critical trends and alternative futures;

(3) these information resources can and should be made publicly available in a form suitable for use by the public and private sectors of the United States economy; and

(4) therefore, it is necessary to establish mechanisms to bring all relevant perspectives into the decision process to evaluate available information, to focus attention on areas in which information is inadequate, and to identify and analyze critical trends and alternative futures based upon the best available information.

SEC. 3. FUNCTIONS OF THE OFFICE OF CRITICAL TRENDS ANALYSIS.

(a) There is established in the Executive Office of the President the Office of Critical Trends Analysis (hereafter in this title referred to as the "Office"). The Director and Deputy Director of the Office shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Office shall be responsible for—

(1) the preparation of the executive branch report as required by section 4;

(2) the review and analysis of Government policies as required by section 5; and

(3) the organization and utilization of the Advisory Commission as required by section 6.

(c) The President shall authorize the Office to utilize the information, property, facilities, services, and personnel of each department and agency in the executive branch to the extent necessary in carrying out such functions. In addition, the Director is authorized to appoint and fix the compensation of employees of the Office.

(d) There are authorized to be appropriated not to exceed $5,000,000 for fiscal year 1990 and each of the succeeding fiscal years for the purpose of carrying out sections 3 through 6 of this Act.

SEC. 4. PREPARATION OF REPORT.

(a) Not later than the end of 1993 and each fourth year thereafter, the Office shall prepare for publication an Executive Branch Report on Critical Trends and Alternative Futures. The report shall contain—

(1) an identification and analysis, of critical trends and alternative futures for the ensuing twenty-year period;

(2) a description of the relationship of such trends and alternative futures to the economic, technological, political, environmental, demographic, and social causes and consequences;

(3) an analysis of such trends and alternative futures with respect to present and future problem areas and potential future opportunities;

(4) an evaluation of the effects of existing and alternative Government policies on such trends; and

(5) an identification of the information and a discussion of the analysis upon which conclusions in the report are based.

(b) Such reports shall be based upon information obtained from sources outside the Federal Government and upon information obtained from Federal departments and agencies.

(c) Prior to the publication of the report required by this section, the Director of the Office shall make a draft copy of such report available to interested persons for the purposes of review and comment. Any significant comments received from interested persons or a summary thereof shall be included as an appendix to the published report.

(d) The President shall submit such report, together with his comments or recommendations thereon, to each House of the Congress and such report shall be made available within the Government and to the public as a public document.

(e) The Office shall also publish such interim reports as it considers necessary and appropriate.

SEC. 5. REVIEW AND ANALYSIS OF GOVERNMENT POLICIES.

The Office shall be responsible for advising the President of the potential effects of Government policies on critical trends and alternative futures. The Office shall—

(1) analyze available information to identify present policies and policy options for the United States in relation to critical trends and alternative futures;

(2) review Federal laws, regulations, programs, and other activities of the Federal Government to determine their long-term effects;

(3) prepare reports for the President as necessary and appropriate;

(4) insure that the Federal departments, agencies, and establishments with responsibilities in the area of policy under consideration are provided an opportunity to comment on the potential effects of Government policies on critical trends and alternative futures;

(5) consider the comments of such Federal departments, agencies, and establishments in performing its functions under this section; and

(6) include the official comments of such Federal departments, agencies, and establishments in any reports provided to the President by the Office under the authority of this section.

SEC. 6. ADVISORY COMMISSION ON CRITICAL TRENDS ANALYSIS.

(a) The Office shall be responsible for the establishment of the Advisory Commission on Critical Trends Analaysis.

(b) The Advisory Commission shall—

(1) provide advice to the Office with respect to its operations; and

(2) promote the public discussion and public awareness of critical trends and the use of analyses of such trends to create alternative futures.

(c) The Advisory Commission shall be composed of nineteen members, as follows:

(1) Five members of the Advisory Commission shall be the heads of Federal agencies designated by the President.

(2) Three members of the Advisory Commission shall be Members of the Senate, appointed by the majority leader and minority leader of the Senate, acting jointly, at least one of whom shall be a member of the minority party.

(3) Three members of the Advisory Commission shall be Members of the House of Representatives appointed by the Speaker of the House of Representatives, at least one of whom shall be a member of the minority party who is appointed in consultation with the leader of the minority party.

(4) Eight members of the Advisory Commission shall be individuals appointed by the President from among individuals who—

(A) are representative of business, labor, academic institutions, community organizations, and other private institutions and organizations; and

(B) have background and experience which has provided such individuals with knowledge concerning demographic, ecological, and economic trends, long-range data collection and analysis or the management of large enterprises, or with other experience relevant for membership on the Advisory Commission.

(d) Members of the Advisory Commission shall be appointed for a term of three years, except that—

(1) the term of office of the members first appointed under subsection (c)(1) shall expire, as designated by the President at the time of appointment, two at the end of one year, two at the end of two years, and one at the end of three years;

(2) the term of members first appointed under subsection (c)(2) shall expire, as designated by the majority leader and the minority leader of the Senate at the time of appointment, one at the end of one year, one at the end of two years, and one at the end of three years;

(3) members appointed under subsection (c)(3) shall be appointed for a term of two years, and the term of members first appointed under such subsection shall expire, as determined by the Speaker of the House of Representatives at the time of appointment, one at the end of one year, and two at the end of two years; and

(4) the term of members first appointed under subsection (c)(4) shall expire, as des-

ignated by the President at the time of appointment, three at the end of one year, two at the end of two years, and three at the end of three years;

No individual may be appointed to serve more than two terms on the Advisory Commission.

(e) The Advisory Commission shall elect one of its members as Chair of the Advisory Commission.

(f) Any vacancy in the Advisory Commission shall not affect its power to function. A vacancy in the Advisory Commission shall be filled in the manner in which the original appointment was made.

SEC. 7. PREPARATION OF CONGRESSIONAL REPORT.

(a) Not later than the end of 1994 and each second year thereafter, the Joint Economic Committee shall prepare for publication a Legislative Branch Report on Critical Trends and Alternative Futures.

(b) The legislative branch report shall examine the information and methods of analysis used in preparation of the executive branch report.

(c) The legislative branch report may include a response to the contents and conclusions of the executive branch report.

(d) The legislative branch report may contain—

(1) an indentification and analysis of critical trends and alternative futures for the ensuing twenty-year period;

(2) a description of the relationship of such trends and alternative futures to the economic, technological, political, environmental, demographic, and social causes and consequences;

(3) an analysis of such trends and alternative futures with respect to present and future problem areas and potential future opportunities;

(4) an evaluation of the effects of existing and alternative Government policies on such trends; and

(5) an identification of the information and a discussion of the analysis upon which conclusions in the report are based.

(e) Such reports shall be based upon information obtained from sources outside the Federal Government and upon information obtained from Federal departments and agencies.

(f) The Congressional Budget Office, the General Accounting Office, the Congressional Research Service of the Library of Congress, the Office of Technology Assessment, the Congressional Clearinghouse on the Future, and other entities within the legislative branch shall make available such information as may be required for the purpose of carrying out this section.

(g) Upon approval by the committee, such report shall be submitted to each House of the Congress and shall be made available within the Government and to the public as a public document.●

By Mr. PRYOR:

S. 1349. A bill to amend the Internal Revenue Code of 1986 to exclude small transactions and to make certain clarifications relating to broker reporting requirements; to the Committee on Finance.

BROKER REPORTING REQUIREMENTS

● Mr. PRYOR. Mr. President, I stand today to introduce legislation to provide regulatory relief to thousands of small businesses across the country. This bill will clarify the reporting requirements for mom-and-pop coin and bullion dealers, who have been unfairly treated by the IRS in the regulatory process.

The 1982 Tax Equity and Fiscal Responsible Act [TEFRA] changed Internal Revenue Code section 6045 to broaden the authority of the Internal Revenue Service in regard to the mandatory filing of reports by securities brokers and others.

In March 1983, the IRS promulgated its first regulations which became effective for transactions made on or after July 1 of that year. On March 5, 1984, the IRS issued proposed regulations to modify the March 1983 regulations. The proposed regulations conflict directly with the promulgated regulations, and the IRS has failed to take any action to clarify which set of regulations are binding. As a result, taxpayers find themselves in the impossible situation of having to conform to both sets of regulations at the same time.

There also seems to be confusion within the IRS as to the proper enforcement of these regulations. Some IRS agents require taxpayers to file 1099(b) reports on all transactions. Some agents ignore the regulations altogether. While other agents have suggested an arbitrary de minimis limit, such as 1 ounce of gold or 1 silver coin. All the while, these business people around the country do not know when the other shoe will fall, and the IRS will come in and decide retroactively whether or not their businesses are in compliance with the regulations.

Mr. President, this is no way to do business. If the Federal Government is going to require taxpayers to comply with costly and time-consuming reporting requirements, the least we can do is clarify the law so that people know whether or not they are in compliance with those laws.

This bill will clarify the definition of "broker." It provides that collectibles are not brokered property. Finally, it exempts small transactions from the reporting requirements.

I believe this is a fair resolution to the problem, and I urge Senators to join with me as cosponsors. Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF DEFINITION OF TERM "BROKER".

Paragraph (1) of section 6045(c) of the Internal Revenue Code of 1986 (relating to returns by brokers) is amended to read as follows:

"(1) BROKER.—

"The term 'broker' includes—

"(A) a dealer,

"(B) a barter exchange, and

"(C) any other person

if such dealer, barter exchange, or other person regularly acts (for a consideration) as a middleman with respect to property or services.".

SEC. 2. COLLECTIBLES NOT INCLUDED IN REPORTED BROKERED PROPERTY.

Subsection (c) of section 6045 of the Internal Revenue Code of 1986 (relating to returns by brokers) is amended by adding at the end thereof the following new paragraph:

"(5) PROPERTY OR SERVICES.—The term 'property or services' does not include any work of art, rug, antique, metal, gem, stamp, coin, alcoholic beverage, gun, or any other tangible personal property specified by the Secretary for purposes of this section."

SEC. 3. RELIEF FROM REPORTING REQUIREMENTS FOR SMALL TRANSACTIONS.

Section 6045 of the Internal Revenue Code of 1986 (relating to returns by brokers) is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FROM FILING FOR SMALL TRANSACTIONS.—Except in the case of stocks, bonds, commodity futures contracts, securities, and other intangible personal property, subsection (a) shall apply only to a transaction the gross proceeds of which is more than $10,000.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to transactions occurring after December 31, 1982.●

ADDITIONAL COSPONSORS

S. 197

At the request of Mr. SASSER the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 197, a bill to authorize the insurance of certain mortgages for first-time home buyers, and for other purposes.

S. 231

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 231, a bill to amend part A of title IV of the Social Security Act to improve quality control standards and procedures under the Aid to Families With Dependent Children Program, and for other purposes.

S. 247

At the request of Mr. METZENBAUM, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Oklahoma [Mr. BOREN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Ohio [Mr. GLENN], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 247, a bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes.

S. 388

At the request of Mr. BINGAMAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 388, a bill to provide for 5

year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes.

S. 659

At the request of Mr. SYMMS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 686

At the request of Mr. MITCHELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 686, a bill to consolidate and improve laws providing compensation and establishing liability for oilspills.

S. 804

At the request of Mr. MITCHELL, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 804, a bill to conserve North American wetland ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats.

S. 828

At the request of Mr. DOMENICI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 828, a bill to amend the Internal Revenue Code of 1986 to provide incentives for the removal of crude oil and natural gas through enhanced oil recovery techniques so as to add as much as 10 billion barrels to the U.S. reserve base, to extend the production of certain stripper oil and gas wells, and for other purposes.

S. 893

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Alabama [Mr. SHELBY], the Senator from Utah [Mr. HATCH], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 893, a bill to establish certain categories of Soviet and Vietnamese nationals presumed to be subject to persecution and to provide for adjustment to refugee status of certain Soviet and Vietnamese parolees.

S. 1051

At the request of Mr. BOSCHWITZ, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1051, a bill to promote the development of small business in rural areas.

S. 1081

At the request of Mr. GRAHAM, the names of the Senator from Virginia [Mr. ROBB], the Senator from Louisiana [Mr. BREAUX], the Senator from Alabama [Mr. HEFLIN], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 1081, a bill to authorize the Secretary of Housing and Urban Development to carry out a cost-effective community-based program for housing rehabilitation and development to serve low- and moderate-income families.

S. 1127

At the request of Mr. WILSON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1127, a bill to provide for fair and reasonable payment for services related to the insertion of intraocular lenses.

S. 1203

At the request of Mr. MCCAIN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1203, a bill to encourage Indian economic development.

S. 1253

At the request of Mr. COCHRAN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1253, a bill to amend the copyright law regarding work made for hire.

S. 1261

At the request of Mr. JEFFORDS, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1261, a bill to amend the Civil Rights Act of 1964 to clarify the burden of proof for unlawful employment practices in disparate impact cases, and for other purposes.

S. 1283

At the request of Mr. CONRAD, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1283, a bill to provide disaster assistance to producers who suffered certain losses in the quantity of the 1989 crop of a commodity harvested as the result of damaging weather or related conditions in 1988 or 1989, and for other purposes.

S. 1314

At the request of Mr. BOREN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1314, a bill to amend the Honey Research, Promotion, and Consumer Information Act to improve the coordinated program of research, promotion, and consumer education established for honey and honey products, and for other purposes.

SENATE JOINT RESOLUTION 48

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 48, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 124

At the request of Mr. GORTON, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate October as "National Quality Month."

SENATE JOINT RESOLUTION 166

At the request of Mr. KERRY, the names of the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Nevada [Mr. BRYAN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Maine [Mr. COHEN], the Senator from California [Mr. CRANSTON], the Senator from New York [Mr. D'AMATO], the Senator from South Dakota [Mr. DASCHLE], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. GLENN], the Senator from Washington [Mr. GORTON], the Senator from Florida [Mr. GRAHAM], the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Wisconsin [Mr. KOHL], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], the Senator from Florida [Mr. MACK], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Nevada [Mr. REID], the Senator from Virginia [Mr. ROBB], the Senator from Maryland [Mr. SARBANES], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from Colorado [Mr. WIRTH], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 166, a joint resolution to designate the period of September 16 through October 9, 1989, as "Coastweeks '89."

AMENDMENT NO. 253

At the request of Mr. D'AMATO, the names of the Senator from Nevada [Mr. REID], the Senator from Illinois [Mr. DIXON], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of amendment No. 253 intended to be proposed to S. 1160, an original bill to authorize appropriations for fiscal year 1990 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and for other purposes.

AMENDMENT NO. 268

At the request of Mr. MOYNIHAN, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of

amendment No. 268 proposed to S. 1160, an original bill to authorize appropriations for fiscal year 1990 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and for other purposes.

SENATE CONCURRENT RESOLUTION 54—RELATING TO A WHITE HOUSE CONFERENCE ON WATER RESOURCES

Mr. DECONCINI (for himself and Mr. DURENBERGER), submitted the following concurrent resolution, which was referred to the Committee on Environment and Public Works:

S. CON. RES. 54

Whereas water is more than a natural resource—it is a necessity of life;

Whereas the use we make of the water resources of our Nation may in large measure determine our future progress and the standard of living of our citizens;

Whereas it is essential to our continued growth and economic prosperity that we have an adequate supply of water, protect and manage our ground water and wetlands resources, have for our citizens safe drinking water supplies, abate and prevent pollution to the greatest extent possible, improve and maintain navigation and flood control protection, preserve our scenic and recreational areas, preserve fish and wildlife resources, and provide the financial means for developing and maintaining needed infrastructure;

Whereas the growing need for more coordinated development and operation of the Nation's water resources is apparent and, to achieve maximum beneficial utilization of water resources, planning for their use must be a cooperative effort participated in by all levels of government, the business and environmental community, academic and public interest organizations, and individual citizens;

Whereas the development of a national water policy is needed to ensure a coordinated and comprehensive focus on key water resources issues and is critical to the economic and social well-being of our citizens;

Whereas we are at a critical juncture in our history where the future of our Nation's water resources must be carefully planned and developed; and

Whereas there has never been a comprehensive water policy which considers all components of our Nation's water resource base: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President of the United States should convene a White House conference on water resources with the goal of focusing national attention on water and the critical need to develop a national policy which ensures the availability of this valuable resource for current and future generations.

Mr. DECONCINI. Mr. President, today, my colleague, Senator DURENBERGER, and I have introduced a resolution which urges President Bush to convene a White House Conference on Water Resources. The resolution expresses a sense of the Congress on the need for a national forum to discuss the major issues our country faces in the water resources area.

The resolution highlights the essential nature of water to the continued growth and economic prosperity of our country. It seeks to focus the attention of our Nation's leaders on the critical need to develop a national policy which ensures the availability of this valuable resource for current and future generations.

Mr. President, we are at a critical juncture in our history. This Nation's water resources must be carefully planned and properly developed. We cannot afford to wait until there is a crisis, but instead should look to the future and prepare accordingly.

A White House Conference on Water Resources would aid us in this effort by bringing together all interested parties—business, the environmental community, academia, all levels of government, individual citizens and public interest organizations—to provide a clear picture of this Nation's water resource needs.

AMENDMENTS SUBMITTED

FOREIGN ASSISTANCE AUTHORIZATION ACT

GORE (AND OTHERS) AMENDMENT NO. 277

Mr. GORE (for himself, Mr. SARBANES, Mr. LUGAR, Mr. KERRY, and Mr. BENTSEN) proposed an amendment to the bill (S. 1160) to authorize appropriations for fiscal year 1990 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and for other purposes, as follows:

On page 49, between lines 18 and 19, insert the following:

SEC. 153. RESTRICTION ON POLITICAL APPOINTMENTS TO KEY POSTS.

(a) FINDINGS.—The Congress finds that—

(1) the United States must increasingly rely upon the professionalism and expertise of its diplomatic service to promote military, political, and economic objectives on which the national security of the United States depends;

(2) the practice of filling ever larger numbers of ambassadorial and key State Department posts with political appointees is undermining the Foreign Service as an instrument of American foreign policy;

(3) other major states do not engage in the practice of undermining their professional corps of diplomats for the purpose of granting political favors or of ensuring loyalty to the party line of the governing party;

(4) this practice has reached the point of causing the Foreign Service to curtail prematurely the careers of increasing numbers of its finest diplomats; and

(5) the range of political appointments to civil service positions has not generally exceeded ten to twenty percent, while the number of political appointments to ambassadorial and key State Department posts has reached as high as approximately forty percent.

(b) POLICY.—Therefore, except in extraordinary cases where the President finds that a non-Foreign Service officer candidate possesses unique skills and information directly pertinent to the post to which he or she is to be assigned, and that the Foreign Service, as certified in writing by the Director General of the Foreign Service, does not have an equally qualified candidate for the same post in its active ranks, it shall be the policy of the United States that the President will not nominate persons from outside the career Foreign Service to more than 15 percent of all ambassadorial and key (Deputy Assistant Secretary and above) State Department posts.

(2) The Congress intends that the policy described in paragraph (1) should be enforced through natural attrition in the course of the term of the present President.

On page 3, after the items relating to section 152, insert the following new item:

Sec. 153. Restriction on political appointments to key posts.

HELMS AMENDMENT NO. 278

Mr. HELMS proposed an amendment to amendment No. 277 proposed by Mr. GORE to the bill S. 1160, supra, as follows:

At the end of the amendment, add the following:

SEC. . No funds authorized to be appropriated in this or any other act shall be made available for the purpose of initiating or conducting contacts with General Manuel Antonio Noriega except for the purpose of issuing a warrant or executing his arrest to stand trial under the terms of the indictment issued on February 5, 1988 in the United States District Court for the Southern and Central Districts of Florida on drug related charges.

BYRD (AND OTHERS) AMENDMENT NO. 279

Mr. BYRD (for himself, Mr. DECONCINI, Mr. BENTSEN, Mr. STEVENS, Mr. D'AMATO, Mr. GORE, Mr. SARBANES, Mr. LUGAR, and Mr. KERRY) proposed an amendment to the bill S. 1160, supra, as follows:

At the end of the bill add the following new section:

Condemning the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria, and authorizing assistance for the relief of Turkish refugees fleeing Bulgaria.

(a) FINDINGS.—The Congress finds that—

(1) The Government of the People's Republic of Bulgaria is a signatory to the 1947 Paris Peace Treaty, the Universal Declaration on Human Rights by the United Nations, and the Helsinki Declaration of the Conference on Security and Cooperation in Europe;

(2) The Helsinki Accords express the commitment of the participating states to respect the fundamental freedoms of conscience, religion, expression, and emigration, and to guarantee the rights of minorities;

(3) The 1971 Constitution of the People's Republic of Bulgaria declares that fundamental rights will not be restricted because of distinction of national origin, race, or religion, and guarantees minorities the rights

to study in their mother tongue and freely practice their religion;

(4) Despite its international obligations and constitutional guarantees, the Government of the People's Republic of Bulgaria has taken numerous steps to repress Turkish language and culture, including prohibiting the study of the Turkish language in schools, banning the use of the Turkish language in public, making the receipt and reading of Turkish publications a punishable act, and jamming the reception

* * * * *

(5) The right of the ethnic Turkish community to freedom of religion has been severely circumscribed by the Government of the People's Republic of Bulgaria, which has closed a number of mosques and barred the importation of copies of the Koran;

(6) Emigration of ethnic Turks and others has been banned with only a few exceptions;

(7) Beginning in December 1984, the Bulgarian authorities forced the Turkish minority to change their Turkish names to Bulgarian ones, and hundreds of ethnic Turks were killed, injured, or arrested by Bulgarian forces in 1984 and 1985 when they protested this new policy;

(8) The Bulgarian authorities have used both force and coercion to resettle ethnic Turks from their local villages to areas in Bulgaria with small Turkish populations;

(9) In May 1989, Bulgarian troops and police attacked ethnic Turks and others who were peacefully demonstrating against their discriminatory treatment in Bulgaria;

(10) Hundreds of demonstrators were killed or wounded in these attacks, and hundreds more were arrested; and

(11) Since these demonstrations, the Government of the People's Republic of Bulgaria has forcibly expelled or coerced into emigrating to Turkey thousands of ethnic Turks without either their money or their possessions, often resulting in the separation of families.

(b) POLICY.—It is the sense of the Congress that the Congress—

(1) strongly condemns the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria;

(2) calls upon the Bulgarian authorities to immediately cease all discriminatory practices against this community and to release all ethnic Turks and others currently imprisoned because of their participation in nonviolent political acts;

(3) calls upon the Bulgarian Government to honor its obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely; and

(4) urges the President and Secretary of State to make strong diplomatic representations to Bulgaria protesting its discriminatory treatment of its Turkish minority and to raise this issue in all appropriate international forums, including the Conference on Security and Cooperation in Europe meeting on the environment in Sofia, Bulgaria, this year.

(c) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to the Department of State, $10 million for purposes of section 2(c) of the Migration and Refugee Assistance Act of 1962, to the Republic of Turkey for assistance for shelter, food and other basic needs to ethnic Turkish refugees fleeing the People's Republic of Bulgaria and resettling on the sovereign territory of Turkey.

PRESSLER (AND OTHERS) AMENDMENT NO. 280

Mr. PRESSLER (for himself, Mr. DOLE, Mr. D'AMATO, and Mr. DOMENICI) proposed an amendment to the bill S. 1160, supra, as follows:

At the end of the bill, add the following new section:

SEC. . HUMAN RIGHTS IN YUGOSLAVIA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the United States continues to support the independence, unity, and territorial integrity of Yugoslavia;

(2) the Department of State's 1988 Country Report on Human Rights Practices cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards, including infringement upon and abrogation of the rights of assembly and fair trial, freedom of speech, and freedom of the press;

(3) the Country Report also indicates that these human rights violations are targeted at certain ethnic groups and regions, most particularly against the ethnic Albanians in the Socialist Autonomous Province of Kosovo;

(4) the human rights of all ethnic groups in Kosovo must be preserved;

(5) those human rights violations, in addition to recent actions taken to limit the social and political autonomy of Kosovo, have precipitated a crisis in that region;

(6) the response of the Government of Yugoslavia to that crisis was a police crackdown that led to the deaths of many civilians and police officers, the wounding of hundreds more, and the imprisonment of additional hundreds;

(7) these human rights abuses violate the high ideals of mutual equality, dignity, and brotherhood among all of the nations and nationalities in Yugoslavia, which have been the guiding principles of Yugoslavia since 1945; and

(8) the European Parliament of the European Community has condemned these actions by the Government of Yugoslavia.

(b) STATEMENT BY THE CONGRESS.—The Congress—

(1) expresses concern regarding human rights violations by the Government of Yugoslavia and its repressive handling of the crisis in the Socialist Autonomous Province of Kosovo;

(2) urges the Yugoslav Government to take all necessary steps to assure that further violence and bloodshed do not occur in Kosovo;

(3) urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act and the United Nations Declaration on Human Rights to assure full protection of the rights of the Albanian ethnic minority and all other national groups in Yugoslavia;

(4) requests the President and the Department of State to continue to monitor closely human rights conditions in Yugoslavia; and

(5) calls upon the President to express these concerns of the Congress through appropriate channels to representatives of Yugoslavia.

SARBANES AMENDMENT NO. 281

Mr. SARBANES proposed an amendment, which was subsequently modified, to amendment No. 280 proposed by Mr. PRESSLER (and others) to the bill S. 1160, supra, as follows:

HUMAN RIGHTS IN YUGOSLAVIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States continues to support the independence, unity, and territorial integrity of Yugoslavia;

(2) recent months have seen increased violence and social unrest in the Socialist Autonomous Province of Kosovo;

(3) the State Department's 1988 Country Report on Human Rights Practices cites many human rights practices in Yugoslavia that violate internationally accepted human rights standards;

(4) these human rights abuses violate the high ideals of mutual equality, dignity, and brotherhood among all of the nations and nationalities in Yugoslavia, which have been the guiding principles of Yugoslavia since 1945; and

(5) the human rights of all ethnic groups in Kosovo must be preserved.

(b) STATEMENT BY THE CONGRESS.—The Congress—

(1) expresses concern regarding human rights abuses, violence and ethnic unrest in the Kosovo province;

(2) urges the Government of Yugoslavia to take all necessary steps to assure that further violence does not occur in Kosovo;

(3) urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act and the United Nations Declaration on Human Rights to assure full protection of the rights of all citizens of Kosovo.

(4) requests the President and the Department of State to continue to monitor closely the human rights situation in Kosovo; and

(5) calls upon the President to express these concerns of the Congress through appropriate channels to representatives in Yugoslavia.

KENNEDY (AND OTHERS) AMENDMENT NO. 282

(Ordered to lie on the table.)

Mr. KENNEDY (for himself, Mr. PELL, Mr. MOYNIHAN, and Ms. MIKULSKI) submitted an amendment intended to be proposed by them to the bill S. 1160, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . FINDINGS.—

(1) It is the policy of the United States to support and promote democratic values and institutions around the world.

(2) Over the last decade, the United States, in concert with other nations, has provided support to those working for democracy in many nations throughout the world.

(3) Such support has advanced the cause of freedom and democracy in those nations by providing international technical expertise on holding free and fair elections, providing international observers to document the conduct of the elections and in offering economic and humanitarian support to newly established democracies.

(4) On June 8, 1989, at the commencement ceremonies at Harvard University, the newest leader of a democratic nation, Prime Minister Benazir Bhutto of Pakistan, called for the establishment of an Association of Democratic Nations to support the right of peoples everywhere to choose freely their own government.

(5) The goals of the Association would be to promote:

(a) the holding of elections at regular intervals which are open to the participation

of all significant political parties, which are fairly administered and in which the franchise is broad or universal;

(b) respect for fundamental human rights including freedom of expression, freedom of conscience, and freedom of association.

(c) international recognition of legitimate elections through international election observer missions at all stages of the election, including the campaign, the voting and the ballot counting.

(d) the mobilization of international opinion and economic measures against the military overthrow of democratic governments.

(e) the provision of economic assistance to strengthen and support democratic nations.

SEC. . It is the sense of the Senate that—

(1) the proposal offered by Prime Minister Benazir Bhutto of Pakistan would further the cause of democracy, freedom and justice and is in the interest of the United States.

(2) the President of the United States should give serious consideration to the implementation of the proposal, and should provide by December 31, 1989, a report to Congress on ways to establish such an Association of Democratic Nations.

Mr. KENNEDY. Mr. President, I send an amendment to the desk calling for the establishment of an Association of Democratic Nations. In the last decade, we have witnessed an extraordinary transfer of political power from dictatorship to democracy in countries across the globe. The United States and other nations have given extensive support to this worldwide struggle for democracy, and this amendment will encourage and enhance that support.

This proposal was first put forward on June 8th of this year during the commencement ceremonies at Harvard University by the world's newest democratic leader—Prime Minister Benazir Bhutto of Pakistan. In her eloquent speech before her alma mater, Prime Minister Bhutto recalled how important such international support was to her own struggle to bring democracy to Pakistan. From the letter to her by Senator PELL that she received in prison to the international delegation of election observers that monitored the 1988 elections, international support time and again provided critical assistance in her struggle. As Prime Minister Bhutto noted in her commencement address, "Democracy needs support and the best support for democracy comes from other democracies."

This amendment is straightforward. It recognizes that the proposal offered by Prime Minister Bhutto would advance the cause of democracy, freedom, and justice and is in the interest of the United States. It also urges the President to give serious consideration to the implementation of the proposal and to report to Congress by the end of the year on ways to establish an Association of Democratic Nations.

Democratic nations should come together in a new consensus to support what Prime Minister Bhutto has called "the most powerful political idea in the world today: the right of people to freely choose their government." In Latin America and Central America, where dictatorships were once the norm, country after country has moved to a democratic form of government. Ignited by the people power revolution led by President Corazon Aquino in the Philippines, the idea of democracy has spread throughout Asia—to South Korea, to Burma, to Pakistan, and to the students of China. And now we are witness to historic democratic movements in the Communist nations of Eastern Europe.

The United States has worked with democratic individuals and institutions in these nations in support or their efforts to promote freedom and justice in their own nations. We have urged free and fair elections, provided technical election assistance, sent international observer missions, and provided economic assistance to newly democratic nations. In cases where democracy continues to be denied, where dictators continue to brutalize advocates of freedom—such as in China—we have worked for international condemnation and diplomatic, military, and economic isolation of the government.

The imaginative proposal put forward by Prime Minister Bhutto would help to bring together the democratic nations of the world in a concerted effort to promote democracy and to support all peoples working to achieve it. America's own experience underscores how important international support is to a struggling democracy.

This amendment will put the United States and all the democracies of the world in the forefront of the effort to support struggling democracies everywhere. I urge my colleagues to lend their support to Prime Minister Bhutto's commendable proposal.

I also ask unanimous consent that the text of Prime Minister Bhutto's address at Harvard may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Harvard Gazette, June 16, 1989]

BHUTTO URGES DEMOCRATIC NATIONS TO UNITE FOR FREEDOM

[Note.—The following is the 1989 Commencement address by Prime Minister Benazir Bhutto.]

President Bok, members of the Board of Overseers, new graduates, and distinguished alumni. I am honored to have been asked to make this commencement address to the Class of 1989. First let me congratulate all those who have been awarded degrees at today's commencment.

No too long ago, I sat where you now sit. I can vividly recall the effort your degrees represent—tramping to class in sub-Arctic temperatures, fighting for reserve books at Hilles Library, cramming for exams, and the occasional all-nighter to complete a term paper.

Today is the day of celebration and I am privileged to share it with you. I am also greatly honored by the degree you have conferred on me, I am grateful, President Bok, for the kind words in your citation. However, I regard this honor as more than a personal recognition.

I consider it an affirmative of your abiding belief in the universality of the principles of democracy, liberty and human rights. Events two centuries ago earned Cambridge, Boston, and the surrounding region the sobriquet "the cradle of liberty." It was here that the first successful struggle against European imperialism began. It was here—under the banner "no taxation without representation"—that the idea of government by the consent of the governed first gained currency.

Cambridge and Harvard were my cradle of liberty, too. I arrived from a country that, in my lifetime, had not known democracy or political freedom. As an undergraduate I was constantly reminded of the value of democracy by the history of freedom that permeates this place. It was not just the history of democracy that inspired me at Harvard. It was, above all, the concrete expression of it.

My Harvard years, 1969 to 1973, coincided with growing frustration over U.S. policy in Southeast Asia. This was particularly true in the campuses where students were in the forefront of those protesting the Vietnam War. For me, there were demonstrations on Boston Common and in Washington; mass meetings at Harvard Stadium.

Some American commentators argued that the division over Vietnam signalled American weakness. I saw it as a measure of America's greatness—a reflection of democracy in action—of an open society, which, because it is open has the means of regeneration and revitalization. In the Pakistan of those days, the press did not criticize the government—because the government controlled the press.

When I was a junior at Harvard, Pakistan initiated an experiment in democracy. The experience is instructive. As 1971 ended, our country was in ruins. A third of the territory and more than one-half of the population was gone, the result of a military defeat precipitated by military repression in what was then East Pakistan. War and mismanagement had left our treasury empty and our economy in shambles. Ninety-three thousand Pakistani soldiers were prisoners of war, threatened by their captors with trial and punishment. Internal discord in West Pakistan threatened the survival of what was left of our country. A protracted period of military rule produced this catastrophe.

It was a disaster resulting from rule without accountability, brought about by the arrogance of a self-imposed mission to save the country from its own people. In the face of catastrophe, what did our military leaders do? They turned power over to the civilians, to an elected Prime Minister.

In a pattern repeated by the Greek colonels and Argentine junta, our military said, in essence, "we have created a hopeless situation; we now wash our hands of the responsibility to resolve it." But resolve it we did. The elected Prime Minister negotiated an honorable peace with the victor. He secured the return of the prisoners of war. He put the economy back on its feet. And he initiated a program of social and economic reform to benefit the poor and dispossessed, who are the majority in our land.

All this was done, I might add, at a time of global economic recession brought about by the oil shocks of the 1970s. What then happened? As is the case of democracies, the po-

litical process again became rambunctious. Opposition politicians challenged the elected government in the press, at the polls, and in the streets.

The military whose dignity was restored by the elected government moved in "to end the squabbling politicians." The new dictatorship proved more brutal, more determined to stay in power than any of its predecessors. Elections were promised and summarily cancelled. The elected Prime Minister was arrested and then, under the cloak of a judicial proceeding, murdered. Flogging, imprisonment, and execution became the staple of political life in our land. Under the circumstances that were as remarkable as they were unexpected. Pakistan last fall got a second chance at democracy. It is an opportunity we must not lose.

In our first act, I am happy to say, our government freed all political prisoners and commuted all death sentences. We have restored freedom of speech, freedom of association, and freedom of the press. In the National Assembly three is a lively opposition and, for the first time in our history, the State-owned television provides full coverage of their activities. Senator Daniel Patrick Moynihan, who recently visited me in Islamabad, once wrote that "if you are in a country where the newspapers are filled with good news, you can be sure that the jails are filled with good men."

Even a casual review of our press would serve to confirm the obverse of the Senator's statement. Around the world democracy is on the march. In the last decade Pakistan is only the most recent country to change course from dictatorship to democracy.

But we must be realistic. We must recognize that democracy, particularly emerging democracy, can be fragile.

I have already cited the experience of our last democratic government. The example is not confined to Pakistan. In the Philippines, Corazon Aquino's three-year-old democracy has already endured several coup attempts. In Argentina, there have been half a dozen military rebellions. In Peru, terrorism and narcotics threaten a 15-year-old experiment in democracy.

Democracy needs support and the best support for democracy comes from other democracies. Already there is an informal network to support democracy. Annually, the United States prepares a report on human rights in every country.

In prison, I was heartened to learn that the Congress had linked U.S. assistance to Pakistan, in the Pell Amendment, to the "restoration of full civil liberties and representative government in Pakistan."

Friends of democracy in other countries, including Britain, Canada, and Germany, sent delegations to investigate human rights abuses in Pakistan. Our elections last November 16 were made easier by the presence of observers sponsored by the Democratic Party of the United States, the British Parliament, and the South Asian Association for Regional Cooperation.

This informal network for democracy can and should be strengthened. Democratic nations should forge a consensus around the most powerful political idea in the world today: the right of people to freely choose their government.

Having created a bond through evolving such a consensus, democratic nations should then come together in an association designed to help each other and promote what is a universal value—democracy.

Not every democracy organizes itself in the same way; nor does every democracy express itself the same way. But there are two elements I consider essential to all democracies. These are:

1) the holding of elections at regular intervals, open to the participation of all significant political parties, that are fairly administered and where the franchise is broad or universal; and

2) respect for fundamental human rights including freedom of expression, freedom of conscience, and freedom of association.

There are several ways in which members of an Association of Democratic Nations can help each other. One way is to ensure the impartiality of elections. After all, democracy as a system of government can only work when all participants in the political process accept the verdict of the people.

For the verdict to be accepted as legitimate, elections must not only be fair, but they must also be seen to be fair. International observer missions have already played critical roles in ensuring fair outcomes to elections in several countries, including mine.

The presence of observers is a deterrent to fraud. The observers' report can help legitimize an election in an emerging democracy where popular skepticism can be rife (as in South Korea), or it can validate local perceptions of fraud, as in the Philippines and Panama.

Observers also bring television cameras with them. It is harder to steal an election if the whole world is watching, and, as the experience of the Philippines suggests, attempted fraud under the glare of television lights can help galvanize a popular uprising.

There are other ways in which an Association of Democratic Nations can provide some protection for democratic governments in the Association. In countries without established traditions of representative government, democracy is always at risk. All too often, there is the overly ambitious general, the all-too-determined fanatic, or the all-too-avaricious politician. The Association of Democratic Nations can help change the calculus for each of these potential coup plotters by adding the element of international opprobrium.

The Association can mobilize international opinion against the leaders of any coup. Ultimately, I believe, the door should be open to stronger steps, including economic sanctions. Democracy depends on our ability to deliver to the people.

Many new democracies find that dictatorship has left them with empty treasuries—because of reckless spending and no accountability under dictatorship. As was true for new democracies in other lands—notably Argentina and Brazil—we in Pakistan also found that dictatorship had left the state coffers empty. Our situation is not unique. Other new democracies have come to power to find the cupboard bare.

The Association could promote the idea that foreign aid should be challenged to democracies. There is nothing wrong with rewarding an idea in which the donors believe. The prospects for democracy may depend on it. Some may object that the Association I am proposing will have primarily moral force.

I acknowledge this, but I would urge that morality has a larger power in international relations than commonly recognized. Democratic nations can also cooperate in building an international machinery to protect human rights and principles of justice and due process of law.

National efforts to strengthen institutions that protect people from human rights abuses and guarantee their political freedoms need to be reinforced at the international level.

Dictatorships will always seek ways and means to clothe their crime in the garb of legality—always seek to settle political scores and eliminate opponents in the name of justice, law, and due process.

The instrument that they use is as old as political history, as old as the trial of Socrates. It is the instrument of the Political Trial—a most pernicious and destructive weapon, which in the hands of skillful manipulators is extremely effective in suppressing dissent and in destroying opponents. I believe it is time that the international community makes a concerted effort to put an end to such practices.

In my country many of those who resisted dictatorship—the heroes of our democratic struggle—were young men and women of your age. Many of them endured long periods of incarceration, and faced charges on political trials that were a travesty of truth and justice.

Many suffered the worst forms of torture and the humiliation of the physical punishment of flogging. Indeed, many had to make the supreme sacrifice with their young lives.

I can never forget what they endured. I can only strive with all my strength to give meaning to what they sought—those simple but priceless freedoms that you here, perhaps, take for granted.

But it is faith that inspired and provided sustenance to our democratic struggle—faith in the righteousness of our cause, faith in the Islamic teaching that 'tyranny cannot long endure.' How wrong therefore is the picture that is often painted about Pakistan as a country that cannot be democratic because it is Muslim. I have often heard the argument that a Muslim country as such cannot have or work democracy.

But I stand before you, a Muslim woman, the elected Prime Minister of a hundred million Muslims, a living refutation of such arguments and notions. This has not happened as an isolated phenomenon.

It has happened because the people of Pakistan have demonstrated, time and again, that their faith in their inherent right to fundamental freedoms is irrepressible, that they will always fight against dictatorship.

This love for freedom and human rights may owe a considerable deal to the colonial legacy and to the example of Western democratic institutions. But it arises fundamentally from the strong egalitarian spirit that pervades Islamic traditions. The Holy Quran calls upon Muslims to resist tyranny. Dictatorships in Pakistan, however long, have therefore always collapsed in the face of this spirit.

Islam, in fact, has a very strong democratic ethos. With its emphasis on justice, on equality and brotherhood of men and women, on government by consultation and consensus, Islam's essence is democratic.

Pakistan is heir to an intellectual tradition of which the illustrious exponent was the poet and philosopher Muhammad Iqbal. He saw the future course for Islamic societies in a synthesis between adherence to the faith and adjustment to the modern age.

It is that tradition which continues to inspire the people of Pakistan in their search for their own way of life amidst competing ideologies and political doctrines. Tolerance, open-mindedness, pursuit of social justice, emphasis on the values of equality and

social concord, and encouragement of scientific inquiry are some of its hallmarks.

It drew strength from the fact that Islam admits no priesthood and that Muslim culture, in its most vital and creative periods, accommodated and advanced what was best in other cultures. Intensely devoted as the pioneers of this tradition were to the Islamic spirit, they were also strongly opposed to bigotry and obscurantism in all their forms.

Xenophobia or prejudice against other civilizations, western or non-western, was repugnant to their outlook. I am indeed proud of this heritage. It is this heritage that has enabled me to take on the awesome responsibilities of the Prime Ministership of my country.

As my country stands on the threshold of greater freedom and sets the priorities that it will take into the 21st century, we draw our inspiration from what the poet-philosopher Iqbal said—and what is universally applicable:

"Life is reduced to a rivulet under dictatorship. But in freedom it becomes a boundless ocean." This is true in Pakistan, and on every continent on earth. Let all of us who believe in freedom join together for the preservation of liberty.

Democratic nations unite.

Thank you very much.

STATEHOOD CENTENNIAL COMMEMORATIVE COIN ACT

BAUCUS AMENDMENT NO. 283

Mr. MITCHELL (for Mr. BAUCUS) proposed an amendment to the bill (S. 681) to require the Secretary of the Treasury to mint and issue coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming, and for other purposes, as follows:

On page 2, strike line numbered 22.

Renumber (1)(B) to (1)(A); and (1)(C) to (1)(B).

On page 7, line numbered 9, after "Idaho Centennial", strike "Commission" and insert in lieu thereof "Foundation".

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Production and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on August 3, 1989, on the preparation for 1990 farm bill: Sugar and honey. The hearing will be held at 9:30 a.m. in SR-332.

Senator KENT CONRAD will conduct the hearing. For further information please contact Miles Goggans of the subcommittee staff 224-2353 or Bob Young of the full committee staff at 224-2035.

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION AND STABILIZATION OF PRICES

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Production and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on August 1, 1989, on the preparation for 1990 farm bill: Livestock and poultry. The hearing will be held at 10 a.m. in SR-332.

Senator MAX BAUCUS will conduct the hearing. For further information please contact Miles Goggans of the subcommittee staff 224-2353 or Bob Young of the full committee staff at 224-2035.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on August 1, 1989, on the implementation of the Agricultural Credit Act of 1987 by the Farmers Home Administration. The hearing will be held at 2:30 p.m. in SR-332.

Senator KENT CONRAD will conduct the hearing. For further information please contact Suzy Dittrich of the subcommittee staff 224-5207.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on August 2, 1989, on water quality protection. The hearing will be held at 9:a.m. in SR-332.

Senator WYCHE FOWLER, JR. will conduct the hearing. For further information please contact DuBoise White of the subcommittee staff 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate July 18, 1989, 9:30 a.m. for a hearing to consider the following Department of Energy nominations: Stephan A. Wakefield to be general counsel of the Department of Energy; J. Michael Davis to be an Assistant Secretary of Energy (Conservation and Renewable Energy); John J. Easton, Jr., to be an Assistant Secretary of Energy (International Affairs and Energy Emergencies); Jacqueline Knox Brown to be an Assistant Secretary of Energy (Congressional and Intergovernmental Affairs); and Harry M. Snyder to be Director of the Office of Surface Mining Reclamation and Enforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, July 18, 1989, at 9:30 a.m. to hold a hearing on rising prescription drug prices and the impact of this phenomenon on the elderly.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, July 18, 1989, at 3:30 p.m. to conduct hearings on the nomination of Michael Skarzynski to be an Assistant Secretary of Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, July 18, at 9:30 a.m., on S. 1237, the Degradable Commodity Plastics Procurement and Standards Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 18, 1989, at 2:30 p.m. to hold a hearing on the nomination of Rockwell Anthony Schnabel, of the District of Columbia, to be Under Secretary of Commerce for Travel and Tourism.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ABE STOLAR'S VISIT TO WASHINGTON

● Mr. DIXON. Mr. President, today we have the opportunity to celebrate a very special event. Abe Stolar, a U.S. citizen and Chicago native is visiting our great Capitol. Every year thousands of U.S. citizens have the opportunity to visit Washington and see democracy up close. But, Abe Stolar's visit is particularly special. Since 1974, Abe, who was taken by his family to the Soviet Union in the early 1930's, has fought to leave the Soviet Union.

This past March, after many unsuccessful efforts, Abe, his wife Gita, and their son, Michael, were finally allowed to emigrate to Israel. Abe and Gita are now visiting our Nation so that he can meet and personally thank the many individuals who helped his family achieve their dream of freedom.

As cochairman of the Congressional Call to Conscience of the Union of

Council for Soviet Jews, I took great interest, along with my close colleague, PAUL SIMON, and many others, in the Stolar's case. This evening, to welcome the Stolar's to Washington, several of my colleagues and I will host a reception in Abe's honor. We hope that your schedules will allow you to stop by and meet Abe and his wife Gita. They are a courageous family, and a poignant reminder that we must continue to press for human rights in the Soviet Union.●

MRS. ELIZABETH S. PORTER, AN OUTSTANDING WOMAN

● Mr. LUGAR. Mr. President, today I would like to pay tribute to Mrs. Elizabeth S. Porter, an outstanding woman.

She was a pioneer—the first woman to graduate from the Christian Theological Seminary—during a time when women were not readily encouraged to go into the ministry.

Mrs. Porter is known nationally as well as locally as an advocate for senior citizens. Nursing homes and convalescent homes are her "second home." She has received many honors and citations because of her untiring dedication to this special group of people.

Through the years she has enriched the lives of many people by finding the energy to serve, to work, and to lead—shouldering countless burdens with entailing good humor and grace; she has used her own money and collected money from friends to help others.

Mrs. Porter serves as a role model for many youngsters by filling them with the desire to "stay in school" and to "go to college." She is constantly giving them encouragement.

I ask my colleagues to join me in saluting this remarkable lady.●

ALLOCATION OF FISCAL YEAR 1990 SPENDING AUTHORITY TO THE SUBCOMMITTEES OF THE COMMITTEE ON ARMED SERVICES

● Mr. NUNN. Mr. President, under section 302(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority. The 302(a) allocation of the fiscal year 1990 budget totals among the Senate committees was printed in the conference report on the fiscal year 1990 budget resolution.

Section 302(b) of the Budget Act requires committees to allocate such spending authority among either subcommittees or programs within their jurisdiction. After consultation with appropriate committees of the other House, the committees are required to report the allocations they have made to their respective House.

The Committee on Armed Services submits the following report in compliance with section 302(b) of the Budget Act allocating its direct spending authority among the subcommittees. I ask that the report be included in the RECORD at this point.

The report follows:

REPORT OF THE COMMITTEE ON ARMED SERVICES PURSUANT TO SECTION 302(B) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. NUNN, from the Committee on Armed Services, submitted the following

REPORT

The Committee on Armed Services, which was allocated certain budget authority and outlays by the managers of the conference on the House Concurrent Resolution 106, reports the division of such allocations among subcommittees of the Committee for fiscal year 1990.

BACKGROUND

Under section 302(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 302(b) of the Act requires the committees to allocate such spending authority among either subcommittees or the programs over which they have jurisdiction. After consultation with appropriate committees of the other House, the committees are required to report the allocations they have made.

ALLOCATION RECEIVED BY THE COMMITTEE

The allocation received by the Committee on Armed Services from the managers of the conference was in two parts: (1) direct spending authority; and (2) entitlements that require appropriations.

The direct spending authority allocation was made to this committee of original and complete jurisdiction for the federal programs and activities assumed in the allocation.

Entitlements and other direct spending accounts that require appropriations were allocated both to this committee and to the Appropriations Committee of the Senate. These amounts, therefore, are reflected in the reports filed by both committees as required by section 302(b).

The Committee on Armed Services received the following allocations for fiscal year 1990:

Fiscal Year 1990

	Millions
Direct spending authority:	
Budget authority	$46,882
Outlays	32,778
Entitlements that require appropriations:	
Budget authority	0
Outlays	0

ALLOCATIONS MADE BY THE COMMITTEE

The Committee has made its allocations among the several subcommittees as shown in the following table. Budget authority and outlay figures are CBO baseline estimates incorporated in the budget resolution.

The total amount of funds allocated in this report is equal to the allocations made to this Committee in H. Con. Res. 106, the Concurrent Resolution on the Budget for Fiscal Year 1990.

Fiscal Year 1990

	Millions
Subcommittee on Manpower and Personnel:	
Budget authority	$46,835
Outlays	32,730
Subcommittee on Readiness, Sustainability and Support:	
Budget authority	46
Outlays	48

SUBCOMMITTEE ACCOUNT ASSIGNMENTS FOR FISCAL YEAR 1990 COMMITTEE ON ARMED SERVICES

[Dollars in millions]

	Amount
Committee total:	
Budget authority	$46,882
Outlay	32,778
Subcommittee on Manpower and Personnel:	
1. Account Name: Payment to military retirement fund—Budget authority	11,183
Account Number: 97 0040 0 1 054—Outlay	11,183
2. Account Name: Military retirement fund—Budget authority	35,470
Account Number: 97 8097 0 7 602—Outlay	21,409
3. Account Name: Education benefits fund—Budget authority	182
Account Number: 97 8098 0 7 702—Outlay	138
4. Account Name: Miscellaneous trust fund (other veterans benefits and services)—Budget authority	0
Account Number: 20 9971 0 7 705—Outlay	0
5. Account Name: Payment of claims—Budget authority	0
Account Number: 84 8930 0 7 705—Outlay	0
6. Account Name: Retired pay, defense—Budget authority	0
Account Number: 97 0030 0 1 602—Outlay	0
Subcommittee subtotal:	
Budget authority	46,835
Outlay	32,730
Subcommittee on Readiness, Sustainability and Support	
1. Account Name: Department of the Navy trust funds—Budget authority	27
Account Number: 17 9972 0 7 051—Outlay	27
2. Account Name: Navy trust revolving funds—Budget authority	0
Account Number: 17 9981 0 8 051—Outlay	4
3. Account Name: Department of the Army trust funds—Budget authority	0
Account Number: 21 9971 0 7 051—Outlay	0
4. Account Name: Surcharge collections, sales of commissary stores, Army—Budget authority	0
Account Number: 21 8420 0 8 051—Outlay	2
5. Account Name: Department of the Air Force general gift fund—Budget authority	0
Account Number: 57 8928 0 7 051—Outlay	0
6. Account Name: Air Force trust revolving funds—Budget authority	0
Account Number: 57 9982 0 8 051—Outlay	9
7. Account Name: Claims, Defense—Budget authority	0
Account Number: 97 0102 0 1 051—Outlay	0
8. Account Name: Homeowners assistance fund, Defence—Budget authority	3
Account Number: 97 4090 0 3 051—Outlay	2
9. Account Name: Coast Guard general gift fund—Budget authority	0
Account Number: 69 8533 0 7 403—Outlay	0
10. Account Name: Panama Canal revolving fund—Budget authority	0
Account Number: 95 4061 0 3 403—Outlay	0
11. Account Name: Barry Goldwater scholarship and excellence in education fund—Budget authority	4
Account Number: 95 8281 0 7 502—Outlay	1
12. Account Name: Panama Canal Commission compensation fund—Budget authority	12
Account Number: 16 5155 0 2 602—Outlay	3
Subcommittee subtotal:	
Budget authority	46
Outlay	48
Grand total:	
Budget authority	46,882
Outlay	32,778

●

ASBURY PARK, NJ, TO CELEBRATE POLISH FREEDOM DAY

● Mr. LAUTENBERG. Mr. President, the mayor and council of the city of Asbury Park, NJ, have proclaimed Sunday, August 27, 1989, Polish Freedom Day, in honor of the 50th anni-

versary of an event decisive in the history of the world, the attack upon Poland by the Nazi and Soviet Hordes.

I rise to pay tribute to the brave Polish people who fought valiantly in the struggle for freedom and independence in Poland, and to honor Polish-Americans, who have, since our Nation's birth, fought for freedom and democracy here in America. Our Nation is a stronger Nation, thanks to the contribution of generations of Polish-Americans.

We seek not only to honor the Polish-Americans who gallantly fought against the forces of tyranny and oppression 50 years ago, we seek to honor also a people that is right now, bravely continuing the struggle for freedom and democracy. The recent elections in Poland mark an important victory in that struggle.

I extend my very best wishes to the citizens of Asbury Park as they gather to celebrate the Seventh Annual Polish Festival. May they continue to commemorate this important day for many more years to come.●

AGRICULTURE COMMODITY-BASED PLASTICS DEVELOPMENT ACT, S. 244 AND THE DEGRADABLE COMMODITY PLASTICS PROCUREMENT AND STANDARDS ACT, S. 1237

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of two bills which strive to promote the development of degradable plastics markets by increasing the purchases of these items by the Federal Government. These two bills, introduced by my distinguished colleague from Ohio, Senator GLENN, are the Agriculture Commodity-Based Plastics Development Act (S. 244) and the Degradable Commodity Plastics Procurement and Standards Act (S. 1237).

The United States is currently generating approximately 160 million tons of solid waste each year. At this rate our country faces the prospects of being buried by our own garbage in the near future.

Storage of solid waste in landfills is currently the cheapest form of disposal, however, active landfills are declining rapidly. The EPA estimates that half of the Nation's 6,000 municipal landfills will close within the next 5 years. Added to this problem are environmental concerns associated with landfills, such as ground water contamination, surface water contamination, and methane gas generation.

Currently, it is estimated that plastics comprise between 20–30 percent of a landfill by volume, and 7 percent by weight. While many materials in an landfill eventually decompose, plastics do not.

There has been extensive research into a new kind of plastic that does degrade. What makes these plastics unique is the addition of cornstarch, which aids in the decomposition process. Use of these new biodegradable plastics will provide a new market for our Nation's agricultural industry while at the same time helping our environment.

S. 244 requires the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities and making these products available to Federal agencies. The GSA Administrator is further directed to encourage development and use of biodegradable agricultural commodity-based plastics through a system of preferential Government procurement, as well as establish an interagency working group to coordinate such activities. In both bills, preferential Government procurement by the GSA will provide incentive for further technological development of biodegradable plastics.

In addition. S. 1237 establishes an interagency council composed of Federal Government agencies in consultation with private agencies demonstrating interest in these issues to develop uniform standards, definitions, and testing procedures for degradables.

I believe that opportunities for the expansion of agricultural based products are abundant. Taking the case of the new cornstarch-based degradable plastics, we can see that benefits are not limited to the agricultural market, but may extend to other areas such as the environment and technological development in a similarly beneficial manner.

I urge my colleagues to join me in cosponsoring these measures, which encourage us to make the most from our resources in an efficient and productive manner.●

FEDERAL ENERGY REGULATORY COMMISSION MEMBER TERM ACT OF 1989, S. 388

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of the Federal Energy Regulatory Commission Member Term Act of 1989, S. 388. This legislation provides for 5-year, staggered terms for members of the Federal Energy Regulatory Commission [FERC]. Identical legislation introduced in the House indicates the universal recognition of its importance.

As the FERC exercises important regulatory powers over the Nation's natural gas and utility industries, this independent, 5-member commission is a significant determinant for the Nation's energy future.

At the end of the last Congress, the FERC found itself in a quandry when 2 seats on the commission became empty and the terms of 2 more members were to expire shortly thereafter. Because a situation like this could leave the FERC without a quorum to conduct business, it is obvious that immediate rectification of conditions of Members' terms are necessary.

Passage of S. 388 would ensure that this situation does not occur again, as the bill would set 5-year, staggered terms of office, and provides that each term would expire at the rate of 1 per year. Currently, continuous expiration of the 5 Members' terms are in 1989, 1991, and 1992. The transition to fully staggered terms would be activated for terms ending in 1993 through 1997. Thereafter all terms will be based on the aforementioned 5-year terms.

This legislation provides a remedy to preventing the events of last year from occurring again. I urge my colleagues to support S. 388.●

COASTWEEKS 1989 SENATE JOINT RESOLUTION 166

● Mr. D'AMATO. Mr. President, I rise today as a cosponsor of Senate Joint Resolution 166 which designates the 3 weeks of September 16–October 9 as "Coastweeks '89".

In years past we have watched with dismay and disgust as garbage polluted our treasured coastlines, degenerating not only the scenic beauty of these natural resources but their esthetic and economic values as well. Congress has recently passed legislation which will promote beautification of our shores, but the nationwide participation of individuals and communities in programs such as "Coastweeks" express even more the national desire to act, not just speak of rectifying the situations endangering our shores. Fishermen, scientists, elected officials and environmental organizations are just a few of the participants who will work together in an event which calls attention to the problems facing our coastal resources.

The purpose of "Coastweeks '89" is to bring together all those interested in preserving our oceans and beaches and devise strategies to combat the problem of coastal pollution. As the program ultimately creates a forum for educating the public about this detrimental situation, I urge my colleagues to join me in supporting this worthy resolution.●

DEATH OF CHESTER NORRIS LYNCH II

● Mr. McCONNELL. Mr. President, it is with a great deal of pride and sorrow that I bring to the attention of my colleagues a young man who lost his own life in a brave attempt to save the life of his companion, a young woman. I would like to insert into the RECORD two articles, one from the Lexington Herald-Leader and one from the Barbourville Mountain Advocate, about the heroic actions of Chester Norris Lynch II, 19, of Louisville, KY.

Chester Lynch and his companion, Diana Cook, of Louisa, KY, were both students at Carl D. Perkins Comprehensive Rehabilitation Center in Thelma, KY. The two were crossing a 140-yard-long railroad bridge nearly 60 feet above the Levisa Fork of the Big Sandy River on May 28, heading toward the center. When they were about halfway across the bridge an empty coal train rounded a blind curve heading straight for them. Chester reached the end of the bridge safely, but Diana's foot had gotten caught in one of the 4-inch spaces between the crossties of the bridge. In complete disregard for his own safety, Chester went back and tried to save her. The engineer slammed on his emergency brakes and leaned on the warning whistle of the train, but he did not have enough room to stop before striking the two students, 15 feet away from safety.

Chester was an active member of the center's basketball team. Having received a Kentucky Colonelcy about 5 weeks prior to the accident, he was named an honorary secretary of state on May 18, and on June 7 was awarded the city of Louisville's Mayor's Citation for Valor for his act of bravery performed at the risk of his own life.

Chester Norris Lynch II demonstrated unbelievable courage in trying to save Diana Cook. It is with honor and pride that I share his story with my colleagues. I hope that they take note of his bravery and join me in offering his family my most sincere condolences.

The articles follow:

[From the Lexington (KY) Herald-Leader]

HEROIC RESCUE ATTEMPT COST STUDENT HIS LIFE

(By Lee Mueller)

PAINTSVILLE.—It might have been a scene out of a movie. But this was real life—and death.

Two 19-year-old handicapped students were halfway across a 140-yard-long railroad bridge Sunday afternoon when an empty coal train rounded a blind curve and charged straight at them.

The students, Chester Norris Lynch II of Louisville and Diana Cook of Louisa, turned and ran.

Lynch, a member of a basketball team at Carl D. Perkins Comprehensive Rehabilitation Center at Thelma, ran ahead of Miss Cook on the bridge's crossties, which have 4-inch spaces between them.

About 60 feet beneath them flowed the Levisa Fork of the Big Sandy River. Behind them, the CSX engineer slammed on his emergency brakes and leaned on the locomotive's warning whistle, state police said.

Lynch reached the end of the bridge, the engineer later told state police, but then he turned and ran back to help Miss Cook. They were about 15 feet from safety when the train ran over them, police said.

"The boy did a pretty brave thing," trooper Earl Gorrell said yesterday. "In complete disregard for his own safety, he went back and tried to save her. There was an act of heroism here."

In yesterday's aftermath, officials at the state operated rehabilitation school and other authorities were sorting out details of the incident.

"It's a tragic, unfortunate incident that we're very upset about and are trying to deal with," said William G. Duke, director of the center.

The 17-year-old rehabilitation center provides training for about 140 students from across Kentucky who have either physical or mental handicaps or both. Most of the students stay at the center.

A counselor at the rehabilitation center told Trooper Gorrell that neither Lynch nor Miss Cook was physically handicapped or had hearing problems. "He (the counselor) said they had been going together while at the center," Gorrell said.

Duke said details of students' activities at the center and their handicaps are, by law, confidential. "Both were fine students and were progressing well," he said.

All but about 60 or 70 of the students had gone home for the Memorial Day weekend, Duke said.

The CSX railroad line runs in front of the center, crosses Ky. 1107, and loops around a residential area before it crosses the 86-year-old steel bridge, which is mounted on two stone pillars.

"Ever since this facility's been here, we've been concerned about the railroad track and bridge," Duke said. "We're continually and constantly dealing with that problem."

Students are prohibited from walking to Paintsville, about three miles away—a rule aimed at keeping them off the railroad track and off a narrow stretch of Ky. 40 beside the river, Duke said.

Violators are sometimes restricted to their dormitories or have passes withdrawn, Duke said. "But our students are not in any fashion confined here," he said. "They are not committed here in any form or fashion. This is strictly voluntary."

The rules apparently did not stop several rehabilitation students from strolling on the railroad tracks or walking on the bridge.

Don Muncy of Thelma lives about 150 feet from the railroad bridge.

On Sunday afternoons and sometimes in the evening after classes, "I've seen as high as 10 go down through here at a time," Muncy said.

"They seemed like a decent bunch of kids. They never bothered nobody. They'd just go down through there, looking around."

Gorrell said Lynch and Miss Cook apparently had crossed the bridge and were on their way back to the rehabilitation center—visible from the bridge—when the eastbound train crossed Ky. 1107 and rounded the bend.

"There were two engines, and they were pulling 156 cars," Gorrell said. "They were only traveling about 30 miles an hour, but it still took them 900 feet to stop."

A secretary at the rehabilitation center information desk looked up and said, "the train stopped more abruptly than she'd ever seen it stop," Duke said.

The deaths were the first student casualities on the railroad tracks, he said.

"Both the students and the staff are upset," Duke said. A memorial service for the two victims has been tentatively scheduled for Wednesday, he said.

[From the Barbourville (KY) Advocate, June 8, 1989]

FORMER RESIDENT'S GRANDSON LOSES LIFE

A young man with family ties to Barbourville lost his life May 28 in a futile attempt to save a girl near Paintsville.

He was Chester Norris Lynch II of Louisville, who was a student at the Carl D. Perkins Comprehensive Rehabilitation Center at Thelma, Ky.

Chester, who was 19, was a grand-nephew of former Barbourville mayor Lee Lynch and grandson of Curtis Lynch, now of Louisville, who used to run the Courtesy Cleaners at Second and Matthew Streets in the city, Curtis lived here between 1921 and 1954.

The Lexington Herald-Leader last week reported that Chester had been walking with a friend of his across a 140-yard-long railroad bridge.

The friend was Diana Cook of Louisa, Ky., who also was a student at the Perkins Center. She also was 19.

The two were about halfway across the bridge when an empty coal train came around a blind curve toward them. About 60 feet below the bridge was the Levisa Fork of the Big Sandy River.

Both students ran on the bridge's crossties to get off the structure, but Miss Cook's foot got caught in one of the four-inch spaces between the ties.

Chester, whose nickname was "Check," reached safety at the end of the bridge first but when he saw she was stuck he ran back to get her. The train struck them both.

The director of the Perkins Center said afterward that the railroad track and the bridge near the center have been recognized to be safety hazards for students, who are prohibited from walking to Paintsville about three miles away. But the rule is not always observed, he said.

Trooper Earl Gorrell said that Chester's action in trying to rescue the girl was an act of heroism "in complete disregard for his own safety."

Chester played on the basketball team at the center. His father, Chester Lynch Sr., is a Louisville real estate broker who attended the Barbourville School as a youth where he was known as Norris Lynch and also played softball in the city.

His son, Chester, had received a Kentucky Colonelcy about six weeks ago and also was named an Honorary Secretary of State. He suffered from dyslexia, a disturbance of the ability to read.

Among his survivors he left three sisters, Donna Dwell and Christine Lynch of Campbellsville, and Malissa Heron of Louisville, and four brothers, Donnie, Joshua, Robert and Micah, all of Michigan.

Graveside services were held at a family plot at the Barbourville Cemetery on May 31 after a funeral at the O.D. White Funeral Home in Louisville.●

CAPTIVE NATIONS WEEK—REFLECTIONS ON CURRENT DEVELOPMENTS

● Mr. RIEGLE. Mr. President, today we take heart in the movement toward freedom in several of the world's captive nations. One of the most striking developments in the past few weeks has occurred in Poland. Solidarity, the independent Polish labor union, has not only been included in the political process, but it is now ackowledged as

the government's official opposition. The overwhelming victory of Solidarity in the recent open elections was a decisive victory for the once underground labor movement, a victory for democracy, and a triumph for Poland.

In Hungary, the rapidly changing economic and political structure has evoked the support of President Bush. On July 12, at the Karl Marx Economics University in Budapest, the President offered $25 million in support of Hungary's private sector and stated that he would seek commitments from the leading democracies to provide Hungary with additional economic and technical assistance.

Mr. President, I would also like to highlight several recent events in Lithuania. On March 26, 1989, Sajudis, the Lithuanian reform movement, took 38 of 40 contestable seats in the Congress of People's Deputies. Furthermore, on May 18, the Supreme Soviet of Lithuania adopted a resolution reasserting the sovereignty of the Lithuanian republic. These constitutional amendments enable Lithuania to veto Soviet legislation which it deems to be threatening to the cultural integrity of the Lithuanian people. Similar to the Polish experience, this kind of institutional reform promises the smoothest path to state sovereignty and durable economic and political reform.

In other captive nations, however, the prospects for democracy are considerably less certain. One need only think back to the events of Tiananmen Square, in the People's Republic of China. The PRC has enjoyed encouraging economic progress for at least a decade. Unfortunately, the Chinese government has continued to rule as a lumbering and corrupt bureaucracy despite profound economic growth and development. China's experience provides an important lesson for those governments in whose hands lie the destinies of the captive nations. Economic reform alone cannot meet the people's demand for freedom; ultimately, the people must be integrated into the political process.

The recent events in the Soviet Ukraine are also of great concern to me. On March 12, 1989, a peaceful demonstration for human, cultural, and religious rights was met with brutal force by the Soviet Special Forces. Tragically, over 300 Ukrainians were arrested and several national rights activists were detained and beaten by Soviet authorities. Despite the forcefulness with which Mikhail Gorbachev promotes perestroika, the oppression of the Ukrainian people stands out as a glaring contradiction to the espousal of openness and toleration of dissent.

The exciting developments in the captive nations have taken on a momentum of their own. For most of these nations, Mr. President, the future looks bright indeed. For others, such as China and Ukraine, one can only hope that democracy prevails over tyranny and the arbitrary exercise of authority. The United States can help by expressing its revulsion with the shame of Tiananmen Square and the recklessness of Soviet force in Lviv.

The captive nations now present even a greater challenge to the two superpowers than ever before. As long as the Soviet Union continues to promote political openness and economic restructuring within the Russian republic, it must extend glasnost and perestroika to all republics under Soviet control. For the United States, the challenge of the captive nations is twofold. On the one hand, we must be careful not to force the hand of change beyond what the agents of change can peacefully accommodate. On the other hand, Mr. President, we cannot neglect to engage the captive nations with our commercial and economic presence, and with our values.●

CAPTIVE NATIONS WEEK

● Mr. SIMON. Mr. President, the third week of July has been proclaimed "Captive Nations Week" every year since 1959. I would like to voice my support for Captive Nations Week 1989.

Real progress is being made in Poland and Hungary, but we still have not seen completely free elections in any East bloc country. Some nations, like Bulgaria, East Germany, and Romania, have not even begun to make the move toward greater political and economic liberties. A truly free and fair election in any Eastern European country would turn out the ruling Communist parties by an overwhelming margin.

Democratic ideals hold a powerful appeal for people everywhere. The United States must always be there to support these ideals and keep the flame of hope alive among the oppressed peoples of the world. We should always encourage those struggling for freedom. We should do what we can to peacefully change the status of captive nations to that of free and prosperous nations.

I ask my colleagues to join me in sending this message to the people of the captive nations of the world.●

CARMEN ROMANO

● Mr. LIEBERMAN. Mr. President, every once in a while I bring to the attention of my colleagues some of Connecticut's community leaders. Today, I would like to speak for a few minutes about Carmen Romano, a man who has dedicated much of his life to helping Connecticut's elderly.

Mr. Romano, who is currently serving as chairman of the Governor's Council on Aging, first began serving Connecticut's elderly in 1957. In that year, he was appointed by former Governor Ribicoff to serve as a member of the Commission on Services for Elderly Persons. He served as Chairman of the committee for 5 years until the Connecticut Department of Aging, whose authorizing legislation he helped draft, was created.

In my hometown of New Haven, Mr. Romano's work is evident in many different ways. In 1958, he opened the first senior citizen center in New Haven, a project he had worked on for a number of years. Not being one to rest on his laurels, Mr. Romano served as a consultant for the Commission on Aging in New Haven, which built a new senior center on Pool Road. Additionally, Mr. Romano directed a preretirement program for the employees of the Winchester Co., the first of its kind in New Haven, with labor and management participation.

I would be remiss to say that Mr. Romano has helped only Connecticut's elderly. Over the years, his innovative ideas and programs have been instituted by communities all over the country. Additionally, Mr. Romano has twice attended the White House Conference on Aging.

For his work, Mr. Romano has received numerous awards such as the Society of Gerontology David C. King Award, the New Haven Senior Council Award, and the Nutmeg Club of New Haven Award for his time and effort on behalf of senior citizens.

I hope that all my colleagues in this body will take note of Carmen Romano's dedication and join me in thanking him for all the outstanding work he has done on behalf of the elderly.●

USE OF POISON GAS IN SOVIET GEORGIA

● Mr. KERRY. Mr. President, on April 9, 1989, Georgian authorities used poisonous gas to quell a nationalist demonstration in Soviet Georgia. This action was in complete violation of recognized international codes of conduct, and constitutes a serious violation of human rights. Soviet authorities have openly recognized the tragedy, and have replaced Georgia's Prime Minister and the head of the Georgian Communist Party.

In response to this tragedy, House Resolution 144 was introduced on May 2, 1989. I believe that this resolution correctly expresses outrage with this type of action, and will support similar legislation that may be introduced in the Senate concerning this issue.

I ask that the following articles, "Party Chief: Army Used Poison Gas on Georgians," from the Boston Globe, published April 26, 1989, and, "U.S. Doctors Say Soviets Used Potent

Tear Gas," also from the Boston Globe, published May 26, 1989, be included at this point in the RECORD.

The articles follow:

PARTY CHIEF: ARMY USED POISON GAS ON GEORGIANS

(By Robin Lodge)

TBILISI, SOVIET UNION.—Georgia's new Communist Party leader acknowledged yesterday that many of the 20 civilians who died in protests in the capital of the Soviet republic this month were killed by poison gas used by troops.

The official, Givi Gumbaridze, said the affair had caused a crisis of confidence in the Communist Party and had seriously harmed the process of reform.

"It has been established that tear gas was used. And a second type of gas was also used. There are cases of poisoning, and some people died," he told visiting foreign journalists.

Until yesterday, Soviet officials have said only that tear gas of the type used in other countries to disperse rioters was used on April 9, despite statements to the contrary by the Georgian Health Ministry.

The remarks by Gumbaridze, appointed after Soviet Foreign Minister Eduard Shevardnadze went to Tbilisi, was the most authoritative yet on the use of poison gas.

"There was a crisis of confidence in the party and we do not think that crisis is over," Gumbaridze told the reporters at the city's communist headquarters. "There is still a deficit of trust by the people; this is in no doubt."

Gumbaridze, who previously served as the republic's KGB security police chief, replaced Dzhumbar Patiashvili, who stepped down with Georgia's prime minister and president after the killings.

He was speaking a few hundred yards from the government building on Tbilisi's Rustaveli Prospekt where the troops, also armed with clubs and shovels and backed by tanks, attacked some 10,000 demonstrators calling for nationalist reforms.

Six prominent intellectuals, recently elected to the new Soviet parliament, said last week the demonstration was "essentially peaceful" and the troops had not been provoked.

Gumbaridze said blame for the heavy-handed treatment of the gathering lay with a small group within the Georgian Party who took the decision to send in the troops without consultation.

Gumbaridze said specialists from Moscow and Leningrad had come to help people suffering from the effects of the poisoning.

But members of an independent, officially sanctioned commission set up to investigate the affair said doctors were still unable to treat gas victims or establish what types of gas were used.

U.S. DOCTORS SAY SOVIETS USED POTENT TEAR GAS

(By Anne Wyman)

An old and particularly harsh form of tear gas was among those used against nationalist demonstrators in Soviet Georgia last month, according to three American doctors who returned from the area this week.

Human rights were violated by the use of tear gas against a civilian population and also by failure to disclose the nature of the gas so doctors could treat victims, the American doctors charged yesterday.

Uncertainty about the cause of death of 20 persons and the illness of some 4,000 more during peaceful demonstrations on April 9 created panic and hysteria among the 1.3 million people of Tiblisi, said Dr. Jennifer Leaning, chief of emergency services at the Harvard Community Health Plan.

Leaning is a member of the Somerville-based Physicians for Human Rights, which made the trip at the invitation of a committee headed by Andrei D. Sakharov, the Soviet physicist and human rights activist.

The people of Soviet Georgia "could not believe the military had come in and killed their people and used poison gas," Leaning said. "It was as if it had happened in Brookline, Mass."

In an unusual piece of medical detection, the team, which included Dr. Barry H. Rumack, director of the poison center at Denver General Hospital in Colorado, and Dr. Ruth A. Brown of McLean Hospital in Belmont, were able to identify the gas chloropicrin as the cause of conflicting symptoms in victims of the April 9 clash.

The Soviet government at first denied the use of any gas in the confrontation, then was forced to admit the use of two forms of tear gas commonly called CN and CS. What puzzled doctors in Tiblisi were symptoms inconsistent with either gas, such as dry mouth, enlarged pupils and reduced bowel activity.

Arriving almost 10 days after the demonstration, the Americans, working with a team of French doctors and local physicians, received "autopsy material that was so scrambled it was impossible to tell the cause of death," said Leaning.

Patient records were reviewed and a Georgian neurosurgeon who had been gassed during the demonstration was able to recall the symptoms precisely. Finally, Rumack used the University of Tiblisi's mass spectrometer to confirm the presence of chloropicrin in a canister found at the demonstration site.

The chemical, used in riot control and military training during World War I and before the 1960s, is restricted to use as a fumigant for rodents and bugs and requires a licensed operator in the United States. It is usually not fatal and its effects wear off in seven to 20 days, Rumack said.

"Both the French, the Georgians and ourselves agreed on the entire process," Rumack said in a telephone interview.

Weeks after the demonstration, hundreds of children began showing symptoms of poisoning. These were determined to be entirely psychosomatic.

"The whole populace was suffering acute post-traumatic stress disorder, including some doctors," said Brown, who helped explain the poison during a two-hour television program in Soviet Georgia.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. item 227, Lt. Gen. Claudius E. Watts III, to be appointed to the grade of lieutenant general on the retired list in the Air Force.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; the motion to reconsider be laid upon the table; that the President, be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follow:

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Claudius E. Watts III, U.S. Air Force.

Mr. HOLLINGS. Mr. President, I thank Sentor NUNN and the Armed Services Committee for their expeditious handling of the retirement of Lt. Gen. Bud Watts, and I join Senator THURMOND in urging the Senate's approval of this nomination.

Mr. President, ordinarily the retirement of a distinguished officer is an occasion for regret. The beauty of this particular retirement, however, is that our Nation will not lose the talents and skills of this outstanding general officer. Properly understood, Lieutenant General Watts is not retiring from the Air Force, he is retiring to The Citadel. After a highly competitive selection process, the Board of Directors at the The Citadel voted without dissent to tap Lieutenant General Watts as the 17th president, in the college's distinguished history. I think it is a superb choice.

The fact is that Lieutenant General Watts embodies the highest qualities of character and leadership. He is a prime example of the kind of officer and gentleman The Citadel strives to mold. A native of Cheraw, SC, Bud Watts graduated from the The Citadel in 1958, won a Fulbright Scholarship, and earned a master's degree from Stanford's Graduate School of Business. Most recently, he has done an outstanding job as comptroller of the Air Force.

Mr. President, I join with Senator THURMOND in congratulating The Citadel on its excellent choice. In approving this retirement list, the Senate also extends to Lieutenant General Watts its best wishes for success at The Citadel. Bud Watt's distinguished career of public service now begins a new and important chapter.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

BILL PLACED ON CALENDAR—H.R. 1860

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 1860, a bill relating to Federal annuitants

who are reemployed for the purpose of the 1990 census, just received from the House of Representatives, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT THE DESK—HOUSE JOINT RESOLUTION 281

Mr. MITCHELL. Mr. President, I ask unanimous consent that House Joint Resolution 281, which designates the Cordell Bank National Marine Sanctuary, just received from the House of Representatives, be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEHOOD CENTENNIAL COMMEMORATIVE COIN ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item No. 155, S. 681, which requires the minting and issuance of a commemorative coin on the 100th anniversary of statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 681) to require the Secretary of the Treasury to mint and issue coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 283

(Purpose: To make certain technical corrections)

Mr. MITCHELL. Mr. President, on behalf of Mr. BAUCUS, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BAUCUS, proposes an amendment numbered 283.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, strike line numbered 22.

Renumber (1)(B) to (1)(A); and (1)(C) to (1)(B).

On page 7, line numbered 9, after "Idaho Centennial", strike "Commission" and insert in lieu thereof "Foundation".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 283) was agreed to.

Mr. BAUCUS. Mr. President, S. 681 is an amended version of a bill I introduced last year to commemorate the centennial of statehood for six Northwestern States. It has been 100 years since the States of Montana, North and South Dakota, Idaho, Wyoming, and Washington entered the Union. To commemorate this singular event, this bill would authorize the striking of both palladium and silver coins designed to highlight the unique heritage and importance of these six States.

It is a pleasure to say that Senators BURNS, ADAMS, BURDICK, CONRAD, DASCHLE, EVANS, MCCLURE, PRESSLER, SIMPSON, SYMMS, and WALLOP join me as cosponsors of this legislation.

The States that are to be commemorated by this coin represent the culmination of Thomas Jefferson's vision, the unchartered and courageous journey of Lewis and Clark, and the subsequent settlement by people that drew their inspiration, vision, and strength from the very land. It is a land of great rivers—the Missouri, Columbia, and Snake, the Powder, Sweetwater, Salmon, and Yellowstone; and great mountains—the Wind River Range and Tetons, the Rockies, the Bitterroots, and Cascades.

Just as importantly, it is a land of great people—pioneering, enduring people with a sense of optimism and community, people who have helped define the American character, people from Calamity Jane and Wild Bill Hickock to Jeannette Rankin and Mike Mansfield. A land where Crazy Horse rode at will and Custer rode his last.

These States represent the culmination of Thomas Jefferson's dream of one land, from sea to shining sea. Land stretching from the Minnesota borders to the Straits of Juan de Fuca, and from the Canadian border to the Laramie Trail were brought together. The result was statehood for the great agricultural heartland and the northern tier of the Rockies to the Pacific Ocean.

This is a land of immigrants from Europe and the Orient; this is a land where native Americans are a proud part of our heritage. The coin that will commemorate these six States will underscore the brilliance of Jefferson's Louisiana Purchase and Daniel Webster's foresight in claiming the Oregon Territory through the Webster-Ashburton Treaty.

From the rain forests of the Pacific Northwest to the Rockies and onward to the Great Plains, this is a land of salmon and shipbuilding, coal and cattle, Yellowstone and Glacier Parks, the Olympics and Lake Coeur d'Alene. But most importantly, this is a land of people—sturdy people—as unique as the coin that will be struck for this occasion.

Mr. President, I would like to offer my personal thanks to Senator RIEGLE for his help with this bill and to Sharon Bauman of the Banking Committee staff whose expertise in redrafting and improving the original bill was most helpful.

Mr. President, time draws short to enact this legislation in order to guarantee that this commemorative coin presents the people of these six States with the kind of acknowledgment they deserve. It is a fact that not a single commemorative honors a city or State in the Intermountain West. Thus, this coin would be an important reminder and recognition of the grandure of this region and the goodness of the people it will represent.

Mr. MCCLURE. Mr. President, I rise in support of the Statehood Centennial Commemorative Coin Act of 1989 of which I am an original sponsor. This bill commemorates the centennial of statehood for six northwestern States—Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming—by minting silver and palladium coins.

Mr. President, legend has it that the name Idaho comes from an Indian word meaning light on the mountains or gem of the mountains. Although historians have done their jobs and told we Idahoans that our long-held belief about the origin of our State's name is a myth, the reality is that Idaho is the gem of the mountains.

The Commemorative Coin Act will help celebrate the 100th year of the gem of the mountains by minting 1 million silver coins. Silver is one of Idaho's gems. In fact, Idaho is the largest silver producer in the United States. It accounts for close to one-fourth of the Nation's production.

The silver coins will be 90 percent silver and 10 percent alloy. The coins will be engraved on one side with the Centennial States' regional logo which depicts the centennial States and on the other with busts of Thomas Jefferson, and Lewis and Clark overlooking the Missouri River. Silver for the coins will come from the National Defense Stockpile.

In addition, profits from coin sales will go to reduce the deficit and to provide $1.5 million for Documents West.

Mr. President, title II of this bill will allow the Secretary to mint and issue proof sets containing 90 percent silver. Proof sets have not contained silver since 1965 when the circulating coinage ceased to be made of silver.

A recent poll conducted by Coin World showed that collectors overwhelmingly prefer commemorative coins made of silver. Two thousand collectors were polled and 50 percent indicated they preferred silver to gold or clad. This is a strong indication that there is a great demand for these coins. Experienced retailers claim that

sales of the proof sets would double if the dime, quarter and half-dollar were made of traditional 90 percent silver.

Proof coins composed of 90 percent silver would consume approximately six-tenths of an ounce of silver per set. Thus, if sales remain constant, over 2 million ounces of silver would be consumed per year. If the retailers predictions are accurate, over 4 million ounces would be consumed. This silver will come from the National Defense Stockpile.

The Mint's very successful regular five-coin proof set program has traditionally achieved sales of 3.5 to 4 million sets annually. Beginning in 1988, the Mint further enhanced this successful program by offering the sets to coin dealers in bulk quantities with discounted prices. This marketing move increased sales of regular proof sets by half million sets. We expect the silver proof sets to be marketed in a similar manner. Annual sales through these two channels is expected to match, if not exceed, the sale of the regular proof coin sets, and consume 2 to 3 million ounces of silver each year.

I am pleased to be an original sponsor of this important legislation and ask my colleagues to join in our effort to celebrate this historic event.

Mr. SYMMS. Mr. President, I am pleased to support legislation to authorize the Treasury to mint and issue coins in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming. Beginning in November and continuing through the next 2 years, no fewer than six States will celebrate 100 years of statehood.

In 1889, North and South Dakota, Montana, and Washington were granted statehood. The following year, President Benjamin Harrison created my home State of Idaho as well as Wyoming. Together, these—the 39th through 44th States—made up more than one-fifth of the area of the United States. Also in 1889, the United States was celebrating the anniversary of the ratification of the Constitution. The East had long been settled and civilized, but west of the Missouri River the country was still raw and untamed. Statehood for this northern tier meant the official end of the frontier. Railroads had already spanned the prairies and mountains; now the ranges would be fenced and the lands would be tilled. Only Utah, Oklahoma, New Mexico, and Arizona were needed to complete the continental union.

The celebrating of the next 2 years will offer Americans a rare opportunity to sample a wide variety of historical exhibits and recreations as well as the small towns so characteristic of the West. Each of the six States will have events that focus on their own unique history and culture, but many States are also planning joint celebrations with other States.

In my home State, the Idaho Centennial Foundation has produced a fine guide to products and sponsors of Idaho's centennial. In addition, many events are being planned including an All-Indian Expo, centennial summer games, an Idaho Centennial Trail, a major women's cycling event, a Basque festival, the annual National Oldtime Fiddlers' Contest as well as a centennial train that will run between Boise and Cheyenne.

This legislation would allow for the minting and issuance of not more than 350,000 $5 palladium coins and 1,000,000 $1 silver coins. With no net cost to the Federal Government, this issuance would utilize silver from stockpiles established under the Strategic and Critical Materials Stock Piling Act which would certainly help the declining silver market in northern Idaho.

Additionally, an amount equal to $1,500,000 of all surcharges received by the Secretary of the Treasury from the sale of coins minted under this title shall be provided to the "Documents West" exhibition program. This provision will greatly aid in the exhibition of historical and educational artifacts pertaining to the six centennial States and will bring about increased awareness of these historic observances.

Mr. President, I join with the Senators from these six northern tier States as well as the many cosponsors to this legislation in urging support for final passage of this bill. This is a unique opportunity to join in the celebrations of six States and the many fine citizens promoting the observance of their historic pasts.

Mr. BURNS. Mr. President, I am extremely pleased to be here today supporting the passage of S. 681, the Statehood Centennial Commemorative Coin Act of 1989.

This bill directs the Treasury to mint 350,000 $5 palladium coins and 1 million silver dollars to commemorate the centennial of six Western States—Montana, Wyoming, North Dakota, South Dakota, Idaho, and Washington. All of these States will celebrate the 100th anniversary of their statehood this year or next.

These six States share a common Western heritage and have made numerous contributions to the history of this great land of ours—from Lewis and Clark to General Custer. We also share many of the same qualities, such as being rich with natural resources. Silver and palladium are two of those resources. In fact, Montana has the distinction of being the only primary domestic source of palladium. The Stillwater Mine in Montana produces approximately 120,000 ounces of palladium a year. In addition, Idaho has the distinction of being the home of the largest U.S. silver mine.

The coins that will be minted under this act will be an important addition to our centennial celebrations. I hope that the House will act quickly on this bill so as to make sure that coins are available during the centennial years—1989 and 1990.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill S. 681 was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—STATEHOOD CENTENNIAL COIN

SEC. 101. SHORT TITLE.

This title may be cited as the "Statehood Centennial Commemorative Coin Act of 1989".

SEC. 102. SPECIFICATIONS OF COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue—

(1) not more than 350,000 five-dollar palladium coins, and

(2) not more than 1,000,000 one-dollar silver coins,

in commemoration of the 100th anniversary of the statehood of Idaho, Montana, North Dakota, South Dakota, Washington, and Wyoming.

(b) SPECIFICATIONS.—

(1) PALLADIUM COINS.—Each five-dollar palladium coin shall—

(A) weigh 31.103 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 23.327625 grams of palladium (.75 fine troy ounce) and shall contain an alloy of such metals and in such proportion as may be deemed necessary by the Secretary.

(2) SILVER COINS.—The silver coins shall—

(A) have a diameter of 1.500 inches; and

(B) be composed of 90 percent silver and 10 percent alloy.

(c) DESIGN.—The design of the coins minted in accordance with this section shall contain an engraving of the Centennial States' regional logo on one side; and on the other side, the bust of Thomas Jefferson, and the busts of Lewis and Clark overlooking the Missouri River. Each coin shall bear a designation of the value of the coin, the year 1989, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The reverse may also contain the words "Northwest Centennial" and "Statehood 1889-1890". Modifications to these designs may be made, if necessary, by the Secretary upon consultation with a duly authorized representative of the 6 States' Centennial Commissions. The design for each coin authorized by this title shall be selected by the Secretary upon consultation with the Commission of Fine Arts.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as

provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

(a) PALLADIUM.—The Secretary shall obtain palladium for the coins referred to in this title by purchase of palladium mined from natural deposits in the United States within one year after the month in which the ore from which it is derived was mined and by purchase of palladium refined in the United States. The Secretary shall pay not more than the average world price for the palladium. In the absence of available supplies of such palladium at the average world price, the Secretary shall purchase supplies of palladium pursuant to the authority of the Secretary under existing law. The Secretary shall issue such regulations as may be necessary to carry out this provision.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 104. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The coins minted under this title may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike each quality.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this title as soon as practicable.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1990.

SEC. 105. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—Sales of coins minted under this title shall include a surcharge of $20 for the palladium coin or $7 for the silver coin.

SEC. 106. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 107. DISPOSITION OF PROCEEDS.

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

(b) REDUCTION OF NATIONAL DEBT.—An amount equal to $1,500,000 of all surcharges received by the Secretary from the sale of coins minted under this title shall be provided to the "Documents West" exhibition program and administered by the Idaho Centennial Foundation. These funds shall be used for the sole purpose of promoting the exhibition of historical and educational artifacts pertaining to the six Centennial States. The remaining amount of surcharges that are received by the Secretary from the sale of coins minted under this title shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 108. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Idaho Centennial Foundation as may be related to the expenditure of amounts paid under section 107.

SEC. 109. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity. No firm shall be considered a Federal contractor for purposes of 41 C.F.R. part 60 et seq. as a result of participating as a United States Mint coin consignee.

TITLE II—SILVER PROOF SETS

SEC. 201. SHORT TITLE.

This title may be cited as the "Silver Coin Proof Set Act".

SEC. 202. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF SILVER PROOF SETS.

Section 5112 of title 31, United States Code, is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

"(h)(1) Notwithstanding this section and section 5111(a)(1) of this title, the Secretary may mint and issue, in quantities the Secretary decides are necessary to meet the public demand, proof sets containing coins described in paragraphs (5) and (6) of subsection (a), and coins described in paragraphs (1), (2), (3), and (4) of subsection (a) that—

"(A) are an alloy of 90 percent silver and 10 percent copper,

"(B) have a design and inscriptions consistent with subsection (d)(1),

"(C) have reeded edges;

"(D) have a mintmark indicating their place of manufacture; and

"(E) bear a hallmark as determined by the Secretary evidencing their fine metal content.

"(2) The Secretary shall sell the proof sets minted under this subsection to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dyes, use of machinery, and overhead expenses).

"(3) For purposes of section 5132(a)(1) of this title, all coins minted under this subsection shall be considered to be numismatic items.".

SEC. 203. SOURCE OF SILVER FOR PROOF SETS.

Section 5116(b) of title 31, United States Code is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall obtain silver for the coins authorized under section 5112(h) of this title by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act and from Treasury stocks on hand. At such time as the Secretary determines that a surplus no longer exists with respect to the sources referred to in the preceding sentence, the Secretary shall acquire silver for such coins by purchase of silver mined from natural deposits in the United States, or in a territory or possession of the United States, within 1 year after the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for the silver. The Secretary may issue such regulations as may be necessary to carry out this paragraph.".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURDICK. Mr. President, it is with a great deal of pride that I join my colleagues from the Great Plains and Pacific Northwest in recognizing the centennial celebrations of our home States.

Centennial coins will be unique and fitting commemoratives of the 100th birthday of our six States. The palladium coin will be the first of its kind minted in the United States and made from Montana palladium. I am pleased that the Senate has seen fit to pass this coin bill as a tribute to the great States of North Dakota, South Dakota, Montana, Idaho, Washington, and Wyoming.

This has been an historic summer for the State of North Dakota. This past Fourth of July, I was home for the largest celebration in North Dakota's history. Flying over the State between Fargo and Bismarck early on July 4, I had time to reflect on just how much we have to celebrate. From the fertile plains of the Red River Valley to the rolling hills around Bismarck to the Badlands on the other side of the Missouri River, our State offers wide open spaces, abundant wildlife, rich agricultural and energy resources, fresh air and some of the best people in the world.

My father, Usher Burdick, started serving North Dakota in the State legislature in 1906 and went on to serve the State in the U.S. House of Repre-

sentatives for 20 years. I'm proud of my family's work for this great prairie State and I'm proud to serve as a U.S. Senator for North Dakota.

I want to wish "happy birthday" to the people of all the centennial States. I also want to commend my colleague from Montana, Senator BAUCUS, for his efforts in passing the commemorative coin bill.

At age 100, these great States have something special in common—a colorful past to celebrate and a bright future to anticipate. I thank the Chair.

BILL INDEFINITELY POSTPONED—S. 783

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar item No. 76, S. 783, the natural gas deregulation bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FALL SCHEDULE

Mr. MITCHELL. Mr. President, for the information of all Senators, the joint leadership has decided that November 10 will be the target sine die adjournment date for the 1st session of the 101st Congress.

I emphasize to all Senators that this is a target date and it is entirely possible that the Congress will have to remain in session beyond November 10 in order to complete the necessary business.

The Republican leader and I have agreed that the Senate will not be in session during the week of October 9 through October 13. This recess period coincides with Yom Kippur and the Columbus Day national holiday.

ORDERS FOR TOMORROW

RECESS AND RESUME PENDING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m. on Wednesday, July 19, and that following the time for the two leaders, the Senate resume consideration of S. 1160, the State Department authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if the distinguished acting Republican leader has no further business, and if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess, under the previous order, until 9:15 a.m. on Wednesday, July 19, 1989.

There being no objection, the Senate, at 6:55 p.m., recessed until Wednesday, July 19, 1989, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate, July 18, 1989:

DEPARTMENT OF STATE

HOWARD K. WALKER, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF MADAGASCAR AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL AND ISLAMIC REPUBLIC OF THE COMOROS.

LANNON WALKER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF THE NIGERIA.

GLEN A. HOLDEN, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAMAICA.

DEPARTMENT OF DEFENSE

JOHN A. BETTI, OF MICHIGAN, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION, VICE ROBERT B. COSTELLO, RESIGNED.

CONFIRMATION

Executive nomination confirmed by the Senate July 18, 1989:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CLAUDIUS E. WATTS III, xxx-xx-xxxx FR, U.S. AIR FORCE.